

THE

Prevention and Repression of Crime

BEING A REPORT OF

THE FIFTH SECTION OF THE INTERNATIONAL CONGRESS
OF CHARITIES, CORRECTION AND PHILANTHROPY,
CHICAGO, JUNE, 1893

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SECTION V.

THE PREVENTION AND REPRESSION OF CRIME AND THE
PUNISHMENT AND REFORMATION OF CRIMINALS.

CHAIRMAN :

CHARLTON T. LEWIS,

President of New York State Prison Association.

SECRETARY :

REV. JOHN L. MILLIGAN,

Secretary of National Prison Association.

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International Congress of Charities, Correction and Philanthropy.

FIFTH SECTION.

THE PREVENTION AND REPRESSION OF CRIME AND THE PUNISHMENT AND REFORMATION OF CRIMINALS.

FIRST SECTION MEETING.

MONDAY, JUNE 12, 1893, 2 P. M.

The Fifth Section of the International Congress of Charities, Correction and Philanthropy met, Mr. CHARLTON T. LEWIS, president of the New York State Prison Association, in the chair.

The CHAIRMAN.—The special subject which this section of the Congress has met to consider is the prevention and repression of crime, and the punishment and reformation of criminals. This vast field of thought and of experience is all before us. In order that our deliberations upon the subject may be of any value, it is necessary that we should formulate a plan for the development of our ideas. We have had most impressively explained to us to-day how the great spirit of charity moving in mankind has become the glory of our own times, not by acting through unregulated impulse and controlling men by inspiration, but by the government of wisdom, the counsel of intellect, instructed by experience, and if we are to accomplish anything with the thoughts which we bring together here, it must be in a systematic manner.

On the other hand, we who have been charged with the responsibility of inviting you to meet in this place for this purpose have been driven by two considerations, to try an experiment almost unheard of in similar undertakings. First, the time at our disposal has been

so short that it was impossible, if we had wished to do so, to provide elaborate essays prepared on paper to be read before you; and second, we have a profound conviction that closet thoughts, elaborated in private, formulated on paper, and then read before us, with the scattered application which the working of so many minds in different places would necessarily bring, is not and can not be the most profitable method of employing our time. We have believed that, if we could bring together here a number of minds devoted to the consideration of these questions, and if these minds would earnestly go to work upon the burning question of the times, upon the living thoughts which are stirring men through the world to-day in connection with this question, then, by the friction of these minds, one upon another, we could develop every strong truth that lies in them and accomplish far more than by any cut-and-dried preparation. We have believed, therefore, that the wiser way is to come together for a real conference, for discussion; each of us to contribute his best thoughts in order that they may be compared with the best thoughts of others—cut to pieces, if you please, but at any rate treated honestly, manfully and candidly by the other minds that are here—so that the truth upon which we finally unite may remain with us as a possession and a heritage. And after our conference, if it is as fruitful as we hope it shall prove, we shall not only be each of us more deeply interested, but the proceedings of this congress will prove a worthy contribution to the world's thought.

Now, this is the outline of the plan before us; and in this plan I ask your earnest co-operation.

Our subject is the methods adopted by society in dealing with crime and the criminal classes, with a view to the elimination of crime as a social factor. Now, the method in which society has treated crime heretofore is one with which all of you are more or less familiar. But we are awakening in this age to the conviction that the treatment of crime by society hitherto has been controlled by a narrowness of thought, a limitation of experience, an imperfection of grasp of the subject, which has permeated all penal legislation. There is now stirring in the general mind, among prison managers, among legislators in all countries, and above all in those minds which, however misjudged by the world at large, however written down as cranks and fanatics, as trimmers, as obstructionists, as mere impractical philosophers, are yet the compass-needles that point the way everywhere to the world's progress—I mean the minds of noble-

hearted philanthropists—a sense that we are on the eve of one of the greatest social revolutions which mankind has ever experienced, and that this revolution will be a reorganization of society, a reconstitution of law, a reformation of the courts, a reconstruction of the entire system of dealing with crime. The time therefore is ripe for our deliberations.

The treatment of crime by society, when you consider it historically, originated, of course, in necessity. That is to say, society was compelled to protect itself against crime, and the imprisonment, the whole fabric of penal law, was founded on that necessity. But associated with it was another element which lies in human nature itself and is one of its most powerful natural instincts, the instinct of vengeance. The idea of retribution is natural to the mind of man. Wherever we find crime disturbing society and interfering with the rights of mankind, causing pain, sorrow and distress, and threatening to destroy the very social organization itself, there we find the moral indignation of men stirred against it; and that indignation finds expression in the attempt, by way of retaliation, to inflict suffering upon the guilty. The necessity of self protection on the part of society and the instinct of retribution are the two elements which underlie the penal codes of the world.

As we have heard to-day (and I have never heard it more impressively, more philosophically and more beautifully expressed than it was in the address of Dr. Peabody in the general meeting this morning), a new principle is now taking hold of society. Mankind has always been charitable, in a sense. Charity has always been a part of the religions professed by men, above all of the Christian religion, the name of whose founder is love. But charity has assumed a new aspect within the last two generations, and to-day the discussion of crime and punishment finds a place in the programme of this Congress of Philanthropy, of Charities and Corrections. The intimate association of these two is suggested by the very title of this assembly.

As the president of the National Prison Association remarked to me but five minutes ago, it was at first thought desirable to hold no meeting of that association this year except as a section of the Congress of Charities. What does that mean? It means that the business of society in protecting itself against the criminal, in warring against crime, in striking the blow of vengeance at the criminal, has given place to the work of charity to the criminal. It has become a

department of human philanthropy, aiming to do good to all men as we would they should do good unto us.

You are aware that hitherto there have been but two recognized methods of dealing with criminals: imprisonment and execution.

Now, if you shut a man up and keep him under lock and key, you prevent him from committing crime. He no longer has the power to ravage and lay waste. But imprisonment in its origin had no such purpose. It originated in the necessity of holding men who were wanted to appear at a certain time. That is all. Its use as a form of punishment for crime is of comparatively recent date. Even in the middle ages such ideas of the punishment of crime as we have developed were wholly unknown. It is a growth of these modern times. It is a growth, allow me to say, in the form in which it exists, the most inadequate, the most supremely absurd, the most contradictory, of all social principles, and has less reason than any other institution upon the face of the earth. Is there anything more ludicrous, if it were not too painful to be a subject of laughter, than to see a grave and dignified judge, a man learned in the law, a man consecrated by his office to impartiality, and entrusted by law with the lives, the property, and the destinies of his fellow-citizens, the interpreter of law, the embodiment of the noblest idea and highest abstraction which the mind of man has yet grasped—to see such a man, who ought to be the first man of his race to-day, sitting on his bench day after day, in the face of the community, and doing—what? He has dragged before him offenders of various sorts. One man has picked a pocket, another has been found drunk in the street, another has broken into his neighbor's house and stolen a lot of books; another is a professional burglar who gains his livelihood by that means, it is his business. The business of this learned, upright judge, this embodiment of law, is to consider a few minutes and then say, "Ten days for the drunkard, thirty days for the pickpocket, five years for the new burglar, twenty years for the professional burglar." The sentence is a guess, and he awards these various terms of imprisonment for what? As retribution for crime? Is society repaying these men for what they have done? Is it inflicting on them exact, equal justice? No man ever sat in a court of justice who could say for one moment that there is the remotest approximation to equity in the distribution of punishment for offenses. But the evil does not lie in the judicial errors inseparable from the ignorance of the judge, and which would be inseparable

from it, I was going to say, if he were Omniscience itself. It lies in the fact that there is no basis for his judgment. There is no possibility of equity in the case. God himself could not distribute sentences, under our penal laws, with any approach to justice, because there is no relation whatever between the penalties provided by the law and the offenses against which these sentences are pronounced. Imprisonment is not a retribution for the offense. But unless you believe that the imprisonment is retribution, that it can be apportioned at so many days, months or years, for such a crime, of such a degree, and further, that degrees of crime can be determined by a court and jury, and the deserts of men measured by days and weeks ; unless you accept all these absurdities, not one of which has any foundation in reason or proof, you must admit that the whole fabric of our penal law, so far as it provides for imprisonment, is founded on unreason. In almost every state in the Union the prisons, as a whole, are not merely a shame and a reproach, but they form the great school of crime, the great manufactory of criminals, where men are trained to be the enemies of their kind.

Now, many men, all over the world, are beginning to think that some substitute for imprisonment, in a very large number of cases, may be found. Attempts have been made to find it. Statutes based on this idea begin to be enacted. If we can here collate and compare the suggestions on this point which have been made, we shall unquestionably derive very much instruction from the discussion.

Among the questions before us are the treatment of confirmed criminals whom society sees no possible chance of saving, and the death penalty for deliberate murder. A second topic in which deep interest is felt by many is the Bertillon system of identification of criminals, which I trust will be considered not merely with reference to its utilitarian possibilities, but also as a scientific device. The county jails, as they exist in the United States, are a leading question of legislation in almost every state in the Union.

As a fourth subject of discussion I suggest the question of a possible substitute for imprisonment ; the recent devices tried in New Zealand, in Massachusetts and in Great Britain—the parole and personal surveillance ; or can any other substitute be found of still greater value ?

On motion of General BRINKERHOFF it was *Resolved*, That the chair, the secretary, and Col. Chas. E. Felton, of the local committee, be an executive committee to arrange a programme of papers and discussions day by day, and announce the same.

T. D. CROTHERS, M. D., Superintendent of the Walnut Lodge Hospital, Hartford, Connecticut, then read the following paper:—

SOME STUDIES OF INEBRIATE AND PAUPER CRIMINALS.

T. D. CROTHERS.

This class of inebriates are quite numerous in all the large cities and manufacturing towns, and are also prominent in seaports, and on the frontier of civilization, and yet, as a class, they have never been studied. They form a conspicuous element of the great understratum of the dangerous classes, and permeate all ranks of society, from the hovel to the palace. They occupy an uncertain and anomalous position in the estimation of the public, and are either regarded as debased criminals and paupers, requiring severe punishment, or as insane, and only partially responsible.

A careful study of the literature of inebriety reveals the startling fact that many of the theories and deductions of inebriety are based on the superficial observations of criminal drunkards.

To illustrate: The superintendent of an insane asylum who has a number of this class under treatment, finding the alcoholic symptoms disappearing and the criminality prominent, denies the disease theory of inebriety. In the same way, the penitentiary and almshouse physician, seeing only vicious symptoms in the inebriates under his care, reaches the same conclusion. The judge on the bench, the lawyer in court, and the daily press, each form a theory of inebriety from this basis, which they put forth with confidence, and thus the public have the most complex and erroneous views. Up to this time, no general study of inebriety has been made which includes all classes, hence this confusion of both theory and treatment.

The student of any phase of insanity, who has seen many cases of melancholy, or dementia, and who builds up a theory of cause, pathology, and treatment based on these cases, announcing authoritatively that it comprehended them all, would be in error. In this way, much of the literature of inebriety is based on the imperfect studies of particular classes, and especially the classes we are to consider in this paper.

A comprehensive study of the whole subject from a higher standpoint is essential before the great underlying laws and principles governing this disorder can be discovered. In a study of this class,

two divisions naturally present themselves, with distinctive causes, which, although they run parallel, yet are quite different in many respects.

The first class are the inebriate criminals, which become so by conditions of surrounding and accidents, and from special external predisposing causes.

The second class always begin with physical degeneration of the brain and nerve-centers—either arrested development, or general perversion of function and structure. They are born criminals or inebriates. In the latter class, the criminal and insane diathesis is always present; in the former, the neurosis is not marked, but may be frequently masked for a long time and then break out suddenly.

Before we enter upon a special study of these classes it will help us to note some of the general symptoms which appear to the ordinary observer. As a class they are the "fast men, such as gamblers, speculators, traveling men, showmen, patent-right swindlers, dealers in alcohols and tobacco," etc. Lower down they are bar-room loafers, hack-drivers, low workmen, street tramps, and beggars, etc. As criminals they commit crimes against property, and rarely against persons; always acting under a diseased impulse, which ignores everything but the selfish gratification of the body. As inebriates they drink impulsively, without any special exciting cause, or remain sober an indefinite time without special reason or purpose. Frequently they have strong mental and physical capacities, coupled with great defects, and with more or less power of concealment. Hence they often take advantage of all those who come in contact with them. As a rule, they are treacherous, cowardly, and sensitive, full of impulsive delusions, and governed by no motives except the lowest, and those of the present moment. Audacity is another common symptom; cupidity, and strong dislike for work, and general disgust for regular living. Improvidence is also prominent in nearly all conditions.

As patients coming to inebriate asylums, they are almost always very much reduced in both mind and body, either having delirium tremens or are on the verge of it. At first they are extremely penitent, and give much promise of permanent recovery. But in a few days all is changed; they lapse, becoming low intriguers, exhibiting a wilful cunning and disregard for the rights of others that is deplorable. They abuse all privileges, drink and procure spirits for others, respect nothing but force, and are most difficult and troublesome patients. Such are some of the general facts of the symptomatology.

If, now, we inquire more particularly into the history and causes, we shall find the first group quite prominent; *namely, those cases in which inebriety seems to spring from conditions of surroundings or accident, and from special external predisposing causes; always associated with criminality and often an inherited insane neurosis.*

One of this family group may be illustrated in the following case: C. D., born and reared in a very careful manner, by strong-minded, exemplary parents, surrounded by every good influence which wealth and social standing could bring. His father was a banker and speculator, leading a life of more or less excitement, although perfectly temperate. His mother was neuralgic, and of a sensitive, excitable disposition. He was in no way different from other boys up to sixteen years of age, when his parents both died within a year, and he came into possession of a large amount of property.

He fell into the hands of some sharpers, who rushed him through a short career of dissipation, both robbing and entangling him with a gang of gamblers and thieves.

From this time he became an accomplice of gamblers and thieves and three-card monte men, alternately drinking and associating with the lowest of this class. At twenty-two he served two years in prison for burglary. At twenty-six, twenty-nine, and thirty years of age he served short sentences for swindling and drunkenness.

Then his friends placed him in an inebriate asylum, as a periodical inebriate. He did well until he regained physical strength, when he displayed the most audacious criminality, reasoning and acting from the lowest motives; bringing in spirits and becoming intoxicated for the purpose of committing violence; when the drink craving was over, exhibiting great penitence; and all the time stealing and appropriating whatever he could find. All sense of right and wrong seemed absent. His entire study seemed to be to secure the fullest gratification of every emotion and passion. He drank constantly, and when restrained became revengeful, and was the centre of intrigue, defying all efforts to control him, unless by physical force. He was not passionate, or very irritable, but fawning and penitent, and at the same time taking advantage of every opportunity to both drink and steal. He was discharged, and went back to his old circle of surroundings, and is now serving a sentence of five years for larceny.

This is a strongly marked case, where accident of conditions and surroundings produced a criminal inebriate from an organization with large passions and only average moral and mental powers. He

may have inherited a weak, impulsive, nervous system from his parents; this, with bad surroundings at a very susceptible period of life, would only follow a natural law in developing this way.

Another case, with more marked predisposing influences, has fallen under my observation. H. O.—Father a clergyman, and very eccentric; mother very irritable and passionate, sometimes doing violence; the grandfather on his mother's side was drunken; some of his father's family were of doubtful reputation. Both parents dying when he was five years of age, he was taken by an exemplary farmer and brought up in excellent surroundings and influences, and was in many respects a model young man; a member of a church, with a quiet manner and easy disposition, inclined to melancholy. At eighteen he went to the city as a clerk in a large house. Here he fell into bad company and drank, and finally proved to be a defaulter and was sent one year to prison. On coming out he went back to the city and became a barkeeper, leading an irregular life of drinking and general dissipation. From this time he became an accomplice of thieves, receiver of stolen goods, and traveled about the country in the interest of criminals, and apparently with no business. At length he was convicted of bank robbery and sentenced for five years. After serving this sentence he was employed as an auction clerk and runner. Sometimes he would remain for months sober, then drink very hard, commit some violence, be arrested, and serve a short sentence. He was brought to an inebriate asylum, suffering from delirium tremens. Recovery was slow, and he seemed very penitent, giving much promise of permanent recovery. A few weeks later he was caught surreptitiously selling liquor to patients, which he had stolen from the railroad freight depot. All disguise was thrown off, and he boldly, from this time, defied all authority, stole and planned all sorts of means to procure liquor and money, rarely drinking himself so that it could be noticed. He submitted to restraint, when it was sustained by force, without opposition, seemed to possess no delusions except to gratify a malicious spirit and the lowest cravings of his nature. He was expelled, and on his way to New York was arrested for highway robbery and sent to prison, where he died of consumption a few months later.

This case was more positively the result of inheritance than the first. Had he remained on the farm, he would probably have lived a correct life and been a good citizen, but a change of circumstances and conditions made him a criminal inebriate. The diathesis was present, and its peculiar train of exciting causes developed it.

A presentation of some of the more general causes at work will make our treatment of the subject clearer.

The conditions and surroundings which develop *inebriate criminals* exist in all our large cities.

They are bad sanitary conditions, with irregular, unhealthy living, sleeping in bedrooms insufficiently lighted and ventilated, and living on bad, unnutritious food, also in a bad mental atmosphere. Add to this the continual indulgence of all the impulses and passions, in surroundings full of the contagions of bad examples, and the result is inevitable. There is here a constantly widening perversion from the natural standard of mental and physical health. Exhaustion and drinking begin early, followed by degeneration which affects the entire organism. Ambition dies out except for the most selfish gratification. Criminality grows out of these surroundings as naturally as weeds spring up in a neglected garden. The evils they suffer from perpetuate themselves and grow more and more rank. All effort to rise to better conditions of living and acting involve the exercise of powers which are either wanting or are feebly developed, or long ago crushed out by the predominance of other elements. As criminals, they always lack the boldness of experts; usually they are followers acting under the guidance of others, and are sneak-thieves, petty swindlers, gamblers—ready to engage in any scheme that will furnish sources of gratification to their passions without much danger or special labor. As inebriates, they drink insanely for a time, governed by circumstances and conditions. If we examine this class more minutely, we shall find that they divide again into two groups, and as such may be studied practically in our asylums.

The first class come from bar-rooms and low haunts of every character; they usually are without any fixed employment, and have been reared in idleness.

Originating in the middle and wealthy classes, or in those inheriting large amounts of property, they have grown up without any fixed purpose in life. Not unfrequently they have squandered their patrimony, and been placed in positions where all efforts to help themselves have more or less resulted in failures.

They are ordinarily marked by their weak mind and unbalanced judgment, suffering from neurosal and mental troubles, and filled with delusions of oppression and wrong at the hands of others. Conscious that society is at war with them, and that its methods antagonize the full play of their passions, they accept the situation and never seek to

change or vary the conditions. But they rapidly become beggars, criminal paupers, robbing their relatives and friends; also lapsing into communists, full of all the small vices, ready at any moment to aid in crime, or take advantage of any weakness, licentious and drunken at all times, and resorting to the lowest devices to gratify their impulses. Syphilis and general degeneration are common; improvidence, fawning, and audacity are marked. In many cases they possess an average or superior brain power, probably coupled with a defective moral force and general want of control. From accident of surroundings all the lower elements of nature are developed. They are more prominent as inebriates than as criminals, and often do criminal acts under the cover of apparent drunkenness. This class are the skeletons haunting their friends continually for money and support, rarely committing noted crimes, but always in centres of low dissipation.

The second group are made up of clerks, traveling men, peddlers, gamblers, and swindlers of all kinds. They are higher up than the last class, and possess a degree of activity which is evidence of a more active brain-power. Quack doctors, police-lawyers, defaulters, and patent swindlers are of this class. They most frequently inherit an unbalanced organism, a distinct or obscure neurosis, and have a family history of insanity, epilepsy, inebriety, syphilis, criminality, cancer, and consumption.

Like the first class, they are largely the outgrowth of the surroundings, originating in bad sanitary and moral influences in early life. The worst phases of this class are seen on the frontier, as miners, speculators and gamblers, or in business centres of large cities, as brokers, agents and middle-men, who are ready, with any excitement or excuse, to defy law and order. As communists and railroad rioters they have attracted much attention for some time. Frequently they are filled with delusions of wealth and power, are superstitious of fate and chance, and alternate between hope and despair. Failure follows in nearly all circumstances of life, and is attributed to others and the wrongs they suffer at their hands. While complaining bitterly of the dishonesty of others, they continue to cheat and drink in an aimless, impulsive way. Not unfrequently they use stimulants to conceal the real motive, and to shield them from the consequence of crime. During the past two years they have appeared in the temperance work in great numbers, and have been noted as defaulters in coffee-house enterprises, and as

lecturers recounting their experience and soliciting help to build up again, etc. With a degree of sharpness and low cunning that is rarely obscured by drink, they have found the various temperance movements of the day a field for the fullest play of all their talents, which they are not slow to occupy. They may be truthfully called the temperance tramps of the day. As inebriates they are noted for their marked periods of sobriety, and the unexpected insane-like relapse. After the fullest gratification of the disordered impulses, they stop short and seem to recover. They commit crime in this impulsive, unreasoning way, confusing courts and juries as to the motive present. In asylums and in prisons they are always the most hopeful, and are sure to create sympathy, and gather about them friends whom they sooner or later victimize.

In both of these groups the surroundings and predisposition to criminality and inebriety are about equally developed; sometimes one predominates over the other, and in some cases they exhibit much skill in concealing the one or the other; chronic suspension or enfeeblement of the will and moral power is present in all cases. They never realize anything but the fullest gratification of all their faculties as the ideal of life, and criminality and inebriety are the best means to this end. Like all the other classes, they suffer from neurosal disorders, such as exhaustion and chronic disease. *In the second general division, most of the cases inherit a special degeneration of the nerve-centers. Either from a non-development or a general perversion of functions and structure, they are both born inebriates and criminals.*

This class are usually marked in every community; their irregularities of living and mental peculiarities, as well as physiognomy, cannot be mistaken. They appear as inebriates in all grades of crime, and are seen in prisons, hospitals and workhouses all over the world; although they are not so commonly seen in inebriate asylums as the first class, yet they are frequently studied in courts of law and insane asylums, as types of all *inebriates*. Not unfrequently they are moral imbeciles, that drift up and down the world like ships without a rudder or purpose. In a study of the general symptomology, the irregularities of life and want of physical development are prominent. They are commonly noted by a large, coarse frame, or an overgrown head and imperfectly developed body; angular projection of the face, such as the eyes, nose and mouth, out of all proportion; the presence of moles or freckles, the

hair thick and coarse, or thin and straggling, etc. The entire body seems to be stamped with signs of imperfect development and degeneration. In some cases all these external signs are wanting. This class of men are found in the lowest stratum of society, performing the most menial work, or higher up, they are soldiers, sailors, barkeepers and adventurers, highwaymen, burglars, etc., following civilization like parasites, the most lawless and dangerous of men. They are also seen along the line of rivers, canals, and on the sea-boards, etc. They are committed for crime against both person and property, and constitute over 60 per cent. of all the inmates of prisons and jails. Not unfrequently they occupy places of trust high up in society, and when tempted fall precipitately, and puzzle experts and judges to determine between insanity and criminality, and the measure of responsibility.

The inheritance of disease is more marked in this class than all others. Dr. Stevenson remarks, "There can be no question but that heredity exists in the mental as well as the physical world, and that the diminished stability of organism and perversion of physical function are transmitted with as much certainty as the germs of disease; that the brain structure receives certain tendencies from inheritance, which bind it down or control its future, or that it has a certain capacity for impressions and energy of organism which goes with it always after."

This expresses clearly the doctrine of heredity which is now accepted as a well established fact. The inebriety of this class is of the same order of neurosis as insanity, and depends upon some molecular change of nerve-tissues, which, coming down from parent to child, fixes the moral and physical character with much certainty. In other words, it is a symptom of physical degeneration of the nerve-centres, an outward expression of an inner condition of development like that which generates low and vulgar ideas, having their counterpart in brutal instincts and words; always connected more or less with diseased and undeveloped nerve-structures. All this is confirmed by clinical histories of numerous families where, for generations, the criminal insane and inebriate neurosis has developed in one or more of the family.

Such persons possess a distinct neurosis, which manifests itself either in inebriety, insanity, epilepsy, criminality or pauperism; or, very commonly, two or more combined in one.

Many of these cases are purely psychical, marked only by special

symptoms which are often in themselves very obscure, and sometimes associated with much intellectual vigor and genius, and display of great strength and weakness. The impairment or loss of the higher moral faculties, leaving the intellectual clear, is a field of much obscurity, and beyond the fact that such is the case, little is known.

With this brief statement of the general facts, which seem to indicate the condition of organism and origin of these cases, we shall pass to a special consideration of some of the groups. *First are those in which the inebriety seems more prominent than the criminality.* They are seen quite frequently at inebriate asylums. Usually suffering from general exhaustion, they recover slowly, and entertain delusions amounting to delirium at times. They are very penitent during this time, and exhibit a humility and determination to reform that is almost abject. On recovery, they become sensitive, assuming and boastful, and all the low criminal tendencies come out prominently. They interfere and meddle with a malicious spirit, creating trouble everywhere; are extremely slanderous and boastful, delighting in low stories and low thoughts; complain bitterly of deprivation of their liberty; find fault with everything; and are changeable in disposition and insolent beyond measure. They are untruthful to an extreme degree, and have no respect for their word or the judgment of others. They drink at all times and places, using all kinds of intrigue to accomplish this end. They will steal anything from their best friends, such as articles of clothing, furniture, and even food from their families and children to procure drink. Nothing can exceed the degradation and suffering which they relentlessly inflict on their nearest relations to gratify this one object.

In an asylum they are always running away, drinking and bringing liquor for others, stealing articles for the pawnshop, and often not drinking to intoxication, but aiding others beyond that point. They are often the agents of more designing men, who take advantage of their situation when drinking to stimulate them to crime, which they are ever ready to engage in. In all situations they are continuously criminal in thought and act; and inebriates at every opportunity. After a wretched life from the station-house to the jail or prison, and the low haunts of large cities, always hunted down like beasts of the chase, they become exhausted and suicidal, either dying by their own hands or going into the insane asylums.

The second class are more prominent as criminals than inebriates. They are cool and calculating, totally destitute of any moral sense.

They drink at times very hard, then remain sober under the press of circumstances for a long time. As an illustration: one of this class drank nothing for over two years (although in centres of great temptation), that he might get in position to accomplish a crime. When this was over he was very intemperate. Often they are victims of vicious, uncontrollable passions and impulses, over which they are powerless. Epilepsy, insanity and pauperism are common phases. They are wanting in pity or lasting kindly sentiment, have little or no natural reason to check them, and never seem to realize the evil which follows their acts, or the suffering they cause others. Turning against their best friends on the slightest pretext, they have no affection for any one except the most selfish; when this is broken, they treat all as enemies.

Prudence is wanting in nearly every one of this class, and is only stimulated and controlled by selfish interest or fear of punishment. In some cases, violent passions such as hatred and revenge seem to control, or be the motive power in drinking. In the asylum, nothing but force, with locks and bars, will make any impression. Sometimes they remain sober for a long time and seem to recover, but the criminal cunning of their nature and want of kindly sentiment are always apparent. Often they cloak all their diseased impulses to accomplish some purpose, and exhibit great skill—appearing in the rôle of reformed men, gathering about them a wide circle of influential and credulous friends; then, all unexpectedly, victimizing them all, and relapsing as both a criminal and drunkard. They are, in all cases, on the borderland of insanity, and both talk and act like insane men. Audacity is one of the most prominent mental traits of this class, and is always of a low grade—usually the blind impulse of a low, unreasoning man. These cases are usually the result of certain conditions of inheritance, from which recovery is difficult. They are sooner or later crushed out in the march of events.

There is another class not so prominent, but more familiar to managers of inebriate asylums, who combine many of the symptoms of both of these classes. Inheriting the unbalanced organism, and frequently the special criminality of the last class, they are, like the first class, creatures of their surroundings, and moulded by conditions of life and success. Always combinations of great ambition and weakness—impulsive and unreasonable at times, full of great expectations and constant failures. At one time drinking hard or committing petty crime, thoroughly discouraged and reckless, then

buoyant with hope and daring schemes for the future. Without prudence or judgment, they always fail, then resort to stimulants to drown their feelings, or in reaction from the change. They are sober men in the high-tide of expectation, when all is clear and the path smooth, but from the first obstacle or discouragement drink precipitately. When they come to the asylum they are melancholy and rave against fate, and after a time have high expectations of getting well, but never work for it, trusting it all into the hands of their friends. Although planning for the future, they seem to be governed by the knowledge of their past failures, and relapse on the slightest temptation or source of irritation. After a few weeks' residence in an asylum they clamor to be released, and make all their surroundings very disagreeable, often relapse and get turned away, go to another asylum, and react the same scenes over. In the meantime they try various methods for cure, keeping their friends buoyed up with hope that is never realized. At any time they are plunged into the deepest melancholy, and not unfrequently commit suicide. If they commit crime, it is of a petty character and against property. They are usually filled with delusions that they can do what others cannot, and will escape where others fail.

These cases come from good families and surroundings generally ; and are often sporting-men, and politicians, and followers of new movements and new creeds of religion, or active patrons of lotteries and games of chance, buyers of chances in Wall street and pools at a horse-race. If they win anything, they drink in elation, and when drunken grow melancholic for a time and want some one to help them get well. These cases end often in paralysis, epilepsy and suicide. Such are some of the most prominent facts which a study of these classes reveals.

We come now to the practical consideration of treatment. Here we find the management of inebriates passing through the same stages as that of insanity. The care of the insane was for many years without system and classification, and this was and is one of the greatest obstacles in the successful treatment of this class. The testimony of writers and observers is unanimous in condemning the system which places all classes of insane together. The effect on the mind, by contact with others of a different form of disease, is not unfrequently the starting-point of a condition more or less chronic. The general want expressed by all observers is facilities for a more perfect classification, so that the surroundings shall aid and not present any obstacles in recovery.

In an examination made some years ago of the almshouses in New York state, the fact was demonstrated that a large per cent. of the inmates were born and bred in those places. From want of proper classifications, conditions of surroundings had sprung up which produced annually a large number of paupers, or so infected others that they could never rise from their surroundings.

If classification is the indispensable condition of the successful management of these institutions, how much more so in inebriate asylums! Here our patients suffer from both a physical and psychological disorder, requiring more than locked wards or agreeable rooms.

We must add to our physical treatment and forced abstinence, protection from contagious moral forces that intensify and destroy all healthy growth towards the higher levels of life. The want of this proper classification diminishes the practical results of all our asylums, and gives credence to diverse theories and deductions. Our authenticated statistics of thirty-three per cent. as permanently cured should be doubled, and the public should recognize in inebriate asylums the most practical charities of the age.

In our struggle against the skepticism and credulity of an ignorant public, we are prevented from making proper classification by want of facilities and means. The acute and chronic cases are forced upon us, and we can make but little division except from some pecuniary standard. Our asylums must be self-supporting, and we cannot discriminate between the patients of a state institution or an endowed asylum. Hence the *acute, chronic, criminal, insane, epileptic, and pauper inebriates* are seen side by side in all our institutions. All the bad effects of contagion and the perils of temptation, with the difficulties of management, are increased to a high degree.

We are confirmed in this statement by the experience of all observers, that every asylum for inebriates in this country is suffering, more or less, from the presence of this criminal class. The liberty of these asylums, and the kindly appeals to the higher moral nature of the patient which they often do not possess, or have feebly developed, make no impression, but rather give opportunity for more easy deception and imposition on the good-will of those about them. Appeals to the religious sentiment of this class not unfrequently give them a kind of education which they are quick to take advantage of in the future, developing into religious impostors who never fail to use this power to their advantage.

If the restraints are imperfect we lose the confidence and co-operation of the patient, and stimulate his mind into opposition and constant endeavors to thwart and destroy its effects. Unless our discipline is thorough and stimulating in all its parts, and rigorously enforced, we are educating these men into methods of intrigue, and building up contagious forces, increasing the difficulties of management, and lowering our reputation in the public estimation.

“The sharp discipline of military asylums, filling the mind with new duties and ambitions, employing the energies in physical labors, is particularly fitted to strengthen and develop the feeble impulses, and to control the diseased longings—this is the basis of reform. Military discipline, and occupation of both body and mind, indicate the most hopeful promise for the future.”

These statements apply especially to criminal inebriates. If we admit patients of this class, we must have the means to enforce obedience and make relapse difficult. They must be separated from others and placed under a rigid military discipline, which will have care of all their habits and surroundings, punishing for all violations with certainty and exactness, and under no circumstances relaxing the military surroundings in less than two to four years.

There is another class of patients, called *repeaters*, who are compounds of criminals and pauper inebriates, although quite frequently wealthy, or having wealthy friends. They go from one asylum to another, like tramps, and bring odium on all, disobey the rules, are sources of infection and annoyance to the management, and are often taken as types of all others. Without facilities for classification, or means to enforce long residence or total abstinence, we are throwing away time and opportunity in all efforts to help or reform this class of inebriate criminals. There would be more hope for criminals in the present system of punishment in jails and penitentiaries, if the sentences were made for years instead of months. The English prison reports indicate a number recovered from inebriety among those of this class sentenced for a period of years. The danger of the present system is that short sentences intensify and fix their condition, isolating and building up a dangerous class, from which recovery is rare. This is owing to the imperfect system of classification, by which all are treated alike and without regard to marked differences of intellect, development and character.

We repeat, the inebriate criminal must be classified and treated by distinct methods. He must be separated from the ordinary

patients of an asylum; and only by this means can we show the public the true value of our work.

The time has arrived when we must be estimated by different standards than that set up by the self-important lunacy specialists, or the superintendents of insane asylums, based on superficial studies of the pauper and criminal inebriate; or the authoritative dictum of the judge, founded on scientific quotations from books more or less obsolete, or perhaps the imperfect study of some case of a chronic character. The public must realize that inebriety cannot be understood and managed successfully except by continuous study in asylums, in the hands of competent men.

We stop here, only adding that our work is a pioneer one, and that, stretching out in every direction, are divisions and topics of this subject which we must study and understand before we can build up model asylums, and manage them with the success that it is possible to attain.

A résumé of what we wish to make prominent is included in the following :

1. This class of inebriate criminals are numerous, and are generally studied as types of all others; and, unfortunately, they furnish the basis upon which much of the literature of inebriety is founded.

2. They are composed of several classes, more or less distinct, requiring a comprehensive study of conditions and surroundings.

3. As patients in inebriate asylums they are extremely difficult to manage, often bringing odium upon the asylum, and receiving little benefit from it.

4. In the treatment they should be classified and put under a strict military discipline, in which labor is a part of the treatment, and this continued for months or years.

5. A removal and classification of this class in our asylums will increase the per cent. of recoveries largely; also a more thorough study of the different classes of inebriety will reveal many facts, and clear away much of the confusion at present existing.

The following are some general conclusions which are supported by the latest teachings of science and experience along this line of study :

1. Inebriate hospitals must take the place of jails and station-houses. Such places are dangerous in their mental and physical surroundings, by intensifying the degeneration, and removing the patient beyond hope of recovery. They are in many cases literal

training stations for mustering in armies of chronic maniacs that never desert or leave the ranks until crushed out forever.

2. Special inebriate hospitals should receive only the incurable inebriates and make them self-supporting, and build them up physically and mentally. They would relieve the taxpayer and relieve society of untold burdens of sorrow and misery.

3. Other inebriate hospitals should receive the recent cases, and place them in the highest conditions of enforced health and vigor, and thus return a large number to health and sobriety again.

4. Inebriate hospitals can and should be self-supporting when once established. They should be managed on scientific business principles, like military training schools.

5. Inebriate hospitals should be built from the money raised by taxes on the sale of spirits, on the principle that every business should be obliged to provide for the accidents which grow out of it.

6. These are the realities which every inebriate hospital is approaching and which all experience points out as practical and literal in the near future.

7. The inebriate hospitals of to-day are only in the infancy of their work, contending with great opposition and prejudice, misunderstood, condemned, and working against innumerable obstacles.

Col. CHARLES E. FELTON, of Chicago.—I cannot discuss the able paper of Dr. Crothers as I would wish; but if I understand him, he would treat inebriety as a disease, and would classify his patients, and send some to hospitals and some to prisons. That has been the practice many years. There are thousands now in prisons, and but dozens in hospitals, however. The thousands and the dozens should change places in numbers, if inebriety is a disease. The word disease covers a very broad field, as applied to inebriety. Simplified, it is a state of the living man in which the natural functions of the organs are interrupted or disturbed either by abnormal or defective action of mind or body. The cause may have been from heredity, hence, in a layman's mind, constitutional; or from self-formed habits; and its appearance may be periodic or occasional, or continuous or chronic. There is nothing criminal in inebriety; but it may become so offensive to the public eye and sense of decency as to be called a vice. Such it often is.

The difficulty comes when you attempt to classify (offenders) patients. The laws do not do that, nor can they. Policemen, nor courts even, are intelligent upon the subject; hence, prisons receive thousands of persons who do not belong in them; and it is unfortunate that the present trend of public opinion, or rather of sentiment, is toward punishing these diseased persons with the same severity they would apply to criminals.

The doctor suggests an ideal hospital, and methods for its support; but from all experience in management, even of industrial prisons, it is found that the industries will not furnish sufficient income to pay the expense of management, nor will license moneys be appropriated to that use. The expense must be paid by our taxpayers; and that fact deters the carrying out of his ideal method.

I am opposed to laws which authorize long imprisonment for the so-called offense of inebriety. To my mind, they are inhuman. The laws of Massachusetts and of Connecticut would not be tolerated in this part of the country. The seeming safeguards are well enough on paper, but notwithstanding those safeguards, great injustice will often be done. The disposition of the authorities to enforce the law will be such that prisons will be filled with persons, a large portion of whom, if confined at all, should be confined in hospitals specially intended for the care of those so-called diseased human beings. The odor of a prison is demoralizing, its name is offensive, and a moral (reformatory) effect from imprisonment in one can not be obtained. The policy in vogue in some other states of making prisons mere catch-basins for inebriates, under very short periods of duration of imprisonment, is also wrong. It is generally believed that at least fifty per cent. of the prisoners in city prisons are sentenced for intoxication or drunkenness. They may have been convicted under an omnibus city ordinance for an offense classed as "drunk and disorderly," but that comes from the way they have been booked when brought to a police station by an unintelligent or officious officer with a star upon his breast. Inebriates, crazed people, epileptics, *et al.*, come under that head, and the word of the officer generally controls the court. "Drunk and disorderly" covers a multitude of sins. Why not require the diagnosis at the station-house, and charge the prisoner with the real offense he commits; and if he should receive two years' sentence for his crime, so declare? But inebriety is not a crime.

In New York state formerly, and possibly now, the state law against public intoxication fixed as penalty a fine of ten dollars and costs; and in default of payment, imprisonment in a workhouse or county penitentiary for the term of ten days. That was a just law, and cases were tried before police justices and justices of the peace. But the state legislature also authorized city councils to pass ordinances against that and other vices; and as a consequence, the offense of inebriety, under other names, is often punished, or was, when I lived in that state, by imprisonment for sixty days or more. Offenders were arrested in the night; watchhouse justice's court was held at or before daylight in the morning; prisoners tried by a justice whom a city council appointed, and a "Black Maria" conveys its load to a city workhouse as early as nine o'clock, and there the subject is bathed, hair and whiskers removed, prison garments substituted for citizen's habit, and at ten o'clock sharp he enters the workshop of the prison. That course is as intolerable as is the

Massachusetts system, save that the imprisonment is not as long. Reform them both, and if you can do so, so classify your "suspects" before sentencing them to institutions that no great injustice will be done. The administration of the system is equally objectionable and should be changed.

During more than twenty-seven years as superintendent of prisons for misdemeanants, I had occasion to know of the injustice often done through the ignorance of policemen and the indifference of justices at police courts; and the relief came only by immediate release after the facts became known. It was not by "parole," where certain officials had completed a long and tedious investigation as to facts or fictions, but by "release by order of the Mayor" of the city upon my recommendation. I believe in pardons, and a reasonable use of the power to release by a governor or by a mayor, as the offense may suggest; and I have faith in a judicious parole system for criminals, if their acts can be controlled while at large; but I do think it wrong to treat as criminals those who offend only as inebriates, and equally wrong to make cesspools of city prisons by committing thereto nearly every class of the vicious, under the more respectable name of inebriates. Make hospitals for the better and more hopeful class, if inebriety is the cause of their ailment.

Dr. CROTHERS.—I think I am misunderstood. Last year 675,000 were arrested in the United States charged with drinking and petty crimes. My point is that it is wrong to send drunkards to penal institutions. I claim that they are diseased. Examine one hundred of them and you will find that eighty have inherited the disease,—neurotic heredity; ten or fifteen more have a history of brain injury beginning before the drink curse came on; and eight or ten more suffer from a real contagion, mental contagion. They are men who have drifted into unfavorable surroundings, and by reason of susceptible nervous organization took on the exact conditions of their surroundings, which they could hardly escape. In that one hundred there are not five per cent. whose habit cannot be traced back to physical causes. They are properly subjects not for vengeance but sympathy; and, instead of workhouses, they should be sent to hospitals and to institutions where labor will form a part of the treatment.

Rev. J. H. NUTTING, of Rhode Island.—At what time is this habit likely to develop, by heredity or otherwise?

Dr. CROTHERS.—Perhaps the two epochs in life, 15 and 25, are the most critical periods. There are critical periods along that line anywhere from 15 to 25. The emotions and the intellect vary widely at that time; so do circumstances, and environment may play its part.

Dr. LEWIS.—Is it not true that environment has more to do with the matter than heredity?

Dr. CROTHERS.—Not in my experience.

Mrs. AGNES L. D'ARCAMBAL, of Detroit.—Michigan has made one step towards the solution of that question, or at least our Governor has created quite a sensation, by signing what they call there,

I am sorry to say, the "jag" bill. For the first offense drunkards have the choice of being sent to the workhouse or sent to some place for cure at the expense of the county, if the man is too poor to pay for treatment.

Mr. BROWN.—There is a statute in France or was, shortly after the Franco-Prussian war, which provided that for the first offense the drunkard should be simply taken to his house, if his residence could be ascertained from his address book or from the man himself. There he was left. The next morning an officer called (not in uniform), and brought a little envelope admonishing him not to be found in that condition on the streets again. If arrested for public intoxication a second time, he received a notice to present himself at the bureau of the commissary of police, where, in the presence of the commissary and his clerk alone, he was again admonished not to appear in that condition again. The third time he was publicly admonished in court, and it was adjudged that, if he should become drunk again, he was not in a moral condition or in a mental or physical condition to be amenable to the restraints of law; so that on the next arrest he was sent on sentence to a *maison de santé* and not to a prison. He was virtually adjudged to have become an insane man, and sentenced, on an indeterminate sentence, to be kept until he was cured. This was in 1873 or 1874, and I am inclined to think that the law still remains in operation.

The section adjourned.

SECOND SECTION MEETING.

TUESDAY, JUNE 13, 1893, 10.30 A. M.

The CHAIRMAN.—Mr. C. H. REEVE, of Plymouth, Indiana, will open the session.

Mr. REEVE then read the following paper:—

THE PHILOSOPHY OF CRIME.

C. H. REEVE.

What is crime?

It is the manifestation by a human being of a mental impulse, in some act which has been forbidden by the declaration of other human beings, in pursuance of certain human customs called government.

What is a mental impulse?

It is thought created by impressions made on the physical and mental organisms through the senses, by the environment of the individual, prompting to some action.

The character of the impressions and the character of the resultant thoughts are dependent upon the material character and arrangement of the organisms on which the impressions are made. Primarily, the character of that material is inherited; thence on, it is modified by life environment. Primarily also, the arrangement of organs is inherited, and thence on they are modified in action, singly and in combination, by environment. Impressions constantly made by the environment educate—first to instinctive action, later to thought; and from constant impressions from outside, and reaction by combined thought, comes an energy—reciprocal in action—which we call “mind”; and within the operations of that mind-energy is created the impulse that gives existence to the thought that prompts every human act.

It follows, beyond the possibility of question, that whatever happens to the individual is a natural outgrowth and unavoidable result of his organism and environment on the plane of action where they have placed him up to the moment of the happening. Had his organism been different in material or in order of arrangement, or his environment from birth onward to that time been any different,

he would not have received the same impressions, been prompted to the same acts, or been in that place at that time, and subject to what then occurred to affect him.

Therefore, crime is one of the factors in, created by, and an outgrowth of, evolution. One among other outgrowths that come in the processes of the evolution that occurs in the progress of man from a condition of barbarism to enlightenment and civilization. Beginning with the earliest intellectual perception relating to government, passing on through the tribal forms up to the highest imperial forms, and onward to the broader developments of enlightened republics such as the one under which we live, the evolution of conditions which have created a conception of relations which we call ethics, has not produced such changes in the physical and mental organisms as to eradicate those that are common to the savage; and enough of the material conditions remain in many human organisms that existed in the original savage, to receive impressions and create impulses prompting to acts of savagery.

The idea of right and wrong has no fixed standard and never did have; and the perception of the necessity for one is manifested alone in arbitrary standards, changing constantly as practical knowledge increases or decreases, or as what we call civilization changes.

Man has come from a state of animal existence where he fought with beasts and the strongest of his own species for life, and in time reached a condition where he consorted with others as an aggregate, in clans and tribes; and rude ideas of superiority of claims, of individual and tribal rights grew up, maintained by force. A certain degree of sympathy and pity was born of the maternal instinct, and of this came revenge where offense was given; being on a higher plane than the mere animal disposition to combat. This is the beginning of what we call moral sense. Later, with a sense of property and local habitation, came the necessity for protection, for more fixed government, and ultimately a rude perception of right and wrong in a moral sense, but relating only to material gain. In all of the philosophies, all of the religions, to become possessors of a "land flowing with milk and honey" has been the great desideratum; and the results of experience were crystallized into instructions for living and conduct to secure and enjoy that end. The promises put into the mouths of all the gods were of the bestowal of material benefits.

This love of property, of material acquisition and possession, of enjoyment of animal pleasures, such as adorned the person, pleased

the physical senses, gratified appetites, ambitions and pride, with a desire for protection and power in that possession, were the ruling impulses, and the ideas of right and wrong were born of the efforts to secure that possession and power, and related to it. In the palmiest days of Rome it was right and moral for a man to take the life of his wife, child and servant. To-day, in autocratic governments, where some of the rulers are men of the highest civilized education the world can give, polygamy is right, and life, liberty and property are at the will of the supreme ruler. There is still no fixed and permanent standard of right and wrong.

In the rising scale from the barbarian nations to the highest civilization of America, the standards in all are arbitrary and there is no fixed standard of crime other than locally. In every nation and every grade of moral impulse common to them all, the savage and the civilized mingle and move side by side. What is crime by the standard and laws of one is no crime by the standard and laws of another. What is moral and permissible by the perceptions of right and wrong with one is immoral and forbidden by another. And when we come to people of one locality—the United States for instance—the same facts exist; that is, those having the highest civilization, as well as those having the lowest, differ among themselves as to right and wrong, as to what is moral and what is immoral. Hence we come to the end, to the limit of possibility in civilization, which is this. Existing conditions, constantly changing, have evolved all forms of existing government, and these are constantly changing. Under the government for the time being formal declarations are made, called laws. With us, a municipal law is defined as being “a rule of action prescribed by the supreme power in the state, commanding what is right and prohibiting what is wrong.” Every person is presumed by the law to know what these rules are. A violation of those which prescribe a penalty for violation is called crime. But these rules are being modified, changed, repealed, and new ones enacted constantly, and only for the time are they a standard of right and wrong. The same must be said of the theological standards. In the Greek Catholic church the priests must all marry. In the Roman Catholic church none may marry; and in most other things are like variations, and changes are constant.

The object of the law is to secure to mankind justice. The nearer it accomplishes that end the higher the civilization. With change in

conditions the changes occur in the laws and in what constitutes crime. Hence crime is, and must continue to be, only a factor in, and one of the changing outgrowths of evolution, the changes which the conditions attending an aggregate of human beings undergo in the progress from barbarism to civilization, and in maintaining that civilization when it is reached.

The philosophy of crime demonstrates this isolated and embarrassing truth. It forces us to abandon all of our preconceived notions of it and regard as largely erroneous our modes of dealing with it. Logically, it calls upon us to review our ideas and dogmas and teachings as to what we call morals, and to begin and pursue the study of the philosophy of morals, which is "the science of duty; the science which treats of the nature and condition of man as a social being, of the duties which result from his social relations, and the reasons on which they are founded." This includes the local environment. What may be the duty in one nation or under one government, may not be, or may be impossible in or under another.

A few words as to the possible limitation of crimes.

The love of property, of gain, of luxurious indulgence, is as strong in men now as it ever has been; and without the restraints of law there would be little scruple as to methods in their acquisition in the majority of individuals. There are none now in many.

The savage spirit of revenge is as active as it ever was in certain human organisms, and the disposition to gratify it is seen in crimes against the person that shock us at every turn. The desire of gain overrides all other thoughts with many, and the wholesale taking of life and cruel mangling of bodies of persons toward whom there are no feelings whatever, is resorted to, to gratify it; as in train wrecking, arson, infernal machines, explosives, and in other ways. Some who are criminally inclined are restrained by municipal law, but more disregard it. Many know little of what it commands or prohibits. Such as cannot be restrained by fear of such penalties as the law prescribes cannot be restrained by moral force, for there is little or no perception in them of right and wrong from a moral point of view.

To have government with liberty we must have public order and safety; and to have these the criminal element must be kept under restraint. Neither moral nor statute law nor education has availed so far to restrain it. It increases out of proportion to increase of population. It costs nearly three times more each year for the conduct

of criminal procedure than it does to conduct the national government, leaving out the pensions, which are gratuities, not expenses. The total is nearly a half-billion of dollars. That leaves but one means for limitation, and philosophy as well as economy dictates the immediate use of that means. It is the imprisonment of all offenders, the abolition of all provisions for so-called punishment by the state, and a recognition of the operation of natural forces, as we have to do in meeting the results in other cases, such as a war of the elements, epidemics, insanity, sickness, etc.

Every criminal impulse is evidence of an abnormal condition of the mental organism. It may be a result more or less of an abnormal condition of the physical organism. Whatever the cause or condition, the person is a menace to order, to government, and so to liberty. In cases of danger, when it is possible, we put the cause of menace in a place and condition where it will cease to be dangerous. So here. Take the dangerous subject into custody and put him in a place and condition where he will not be dangerous. That places two limitations in operation. It prevents crime by him, and the possibility of abnormal posterity through him. The social and political sea is purified so far. We exercise the power to take life, and claim the right. We may as justly exercise the power of depriving one of liberty for life, and in every case of a confirmed criminal diathesis, or any other case of abnormality, where hereditary transmission of a vicious condition may follow, it should be made impossible.

Once in custody, an effort should be made to learn the cause of the offender's abnormal condition. If it can be removed and he be made fit for liberty, restore it to him. If not, the matter remains one of public safety, and restraint should continue. The demands of justice do not stop with him. They go through and beyond him and reach the public beyond, whose peace and order his liberty would menace. By and under license miscalled liberty, we permit him to come among us. This makes us responsible for him, and we are morally bound to take care of him and protect others against him.

His disappearance in prison, never to return, would exert a force upon others a thousandfold greater as a preventive than any idea or practice of punishment could do or ever did. The possible limitations of crime will thus be reached, so far as the idea of punishment now in force can do it, carried to a legitimate end by this modification.

But the law can go further. It now encourages and sanctions the rearing of criminal organisms. It licenses the marriage of the vile and degraded, and of others wholly unfit for the relation; including felons in the jail and demented paupers in the poorhouse. Judicial officers and consecrated ministers of the church perform the ceremonies to make the union legal. In this, both the state and the church, as well as their agents, are severally guilty of injuries against society a thousand times greater than are the crimes of any criminal they license and unite in marriage. By statutory enactment the law can forbid all such marriages, and put under restraint the offenders as it does any other criminals. It can remove the offspring of criminals from their environment and put them under charge of state guardians, where the influence and training will tend to create healthy mental conditions, prompting to order, and to a greater or less extent limit criminal acts by these. With such prohibition by those unfit to rear children as is possible, the isolation of offenders, the custody and training of the tainted offspring that does come, the making of personal liberty dependent on obedience to statutory law, the teaching of that law in our schools, and asexualization of the incurably vicious, we shall reach the limitations of restraint of crimes, and a few generations will see society as free from criminals as we can make it.

A few words as to reformation of criminals.

What is reformation?

That depends on the condition of the criminal. It is the creation of what is lacking, the modification of what is in excess, the increase of what is insufficient, and the adjustment of all that exists or can be supplied in harmonious relations. It is taking an abnormal, or ill-balanced, or defective organism, physical or mental or both—and one generally implies the other—and making a balanced one out of it, so that impressions upon it through the senses will create moral impulses and thoughts, as well as practical ones; enabling it to adapt itself to social surroundings, preserve order, and make a living.

How can it be accomplished?

In one way only. By finding the level and extent of the perceptive and conceptive capacity of the subject, and educating it up to a moral and practical level of perception and conception. As we do not take a watch to a blacksmith for adjustment, nor a wagon to a jeweler for repairs, so we should not take a criminal to one who is not qualified to reform him. It would be useless to take one with no

moral perception, no emotional nature, to a chaplain. Each must go first to one skilled in anatomy, physiology, pathology, medicine and hygiene; then to one who is a skilled alienist and versed in psychological phenomena; lastly, to skilled educators; and this will include the moral instructor, and the religious teacher if the subject has moral sense, reverence, and emotional elements, and an industrial teacher. Each subject will require treatment varying more or less in some respects from any other. He must be taught not only to observe order by understanding his relations to the state, to society and his fellowmen in all conditions, but how to make a living. Unless this can be done, he will not be reformed.

The subject of crime and criminals is purely a matter of business in government. Government alone can protect against them and take care of them. Neither sentiment nor charity enter into the subject until the criminal is rendered harmless. Then what is called humanity may be given as full play as may be consistent with the public welfare.

Reformation, to be effective, must begin with the statutory laws relating to civil conditions; especially marriage, divorce, immigration, naturalization, individual and corporate franchises, prosecutions and defense in the courts, inquests by grand juries, public prosecutors, penal offenses, the disposition of convicts, prisons and some others. The whole penal code as now existing must be wiped out, the idea of punishment by the state be abrogated, and a new statute on the subject of crime and criminal proceedings be substituted. Provision should be made for teaching social science in the schools.

The state must specifically declare what shall be regarded as a criminal act. That liberty shall be conditional on obedience to the law. That violation of the law shall forfeit the right to liberty. That on conviction the sentence shall be to imprisonment for safety. The character of restraint shall be dependent on the facts in each case as disclosed on the trial; and the court shall use all means of inquiry available to disclose every material fact, as well in relation to the character and condition of the accused as to his guilt; and the record shall go to the prison with him. There he is to be put into proper employment by the state. If he becomes fit to have liberty, it can be so found by a proper tribunal and he be set free. Until so found he should remain. Those who prove to be incurable or unreformable should be rendered incapable of perpetuating their infirmities, so they will be that far harmless if they escape. The prisons should be

so remodeled and constructed as to admit of justice and practical efforts in the final disposition of the inmates, as well as for reformatory measures. To permit the least harmful, the most dangerous, the various grades as they may be found, to be so distributed as to make the prison a community as tolerable in all respects as such a community can be made, considering what they would be if at large. This will afford justice to the accidental and the unintentional offender; the weak-minded, lacking will-power and not vicious; and the ones amenable to moral force and so reformable.

The history of crime began with that of the creation, according to the biblical records. Without cause, the first two created human beings became criminals; trespassers first, then thieves and hypocrites; and the Creator drove them from his presence, cursed for all time, and the earth cursed for their sake. Of their first two children, one slew the other and became a murderer, and he was driven out, cursed and marked. We may take the religious history of any and of all nations, of any and of all periods, including the Jewish and Christian—which most nearly concern us—and we will find that with all the preaching, praying, and so-called religious endeavor, crime has gone on steadily increasing. Criminal cruelty, recklessness and bestiality have become worse and worse, until the so-called Christian superintendents and employés in some institutions have been found indulging in practices too revolting to name. Innumerable crimes occur in the prisons themselves, while in some, where the state fixes determinate penalties, revolt, insurrections, murders and escapes are a common occurrence.

It should be conclusively evident to all observing philanthropists that God has given man the means and the law, and expects him to reap the benefits of observance and the consequences of disregard, without any special interference on His part with the operation of the natural forces inherent in matter as created by Himself. Therefore the question before us becomes one of the continued increase of crime under existing methods, to the final destruction of order and civilization in time, or a recognition of the philosophy of crime and the possible limitations of it by the prevention of the breeding and rearing of criminal elements; while we isolate such as come in spite of efforts to prevent, as soon as their impulses prompt a criminal act, and render them harmless if they cannot be reformed. Just as we isolate the first case of infectious or contagious disease dangerous to others, and all other cases as they appear, and keep them isolated

until safety is assured by complete cure or final dissolution. And as we fumigate and purify the premises infected, in like manner seize and try to purify the offspring of the criminal; and if we cannot succeed, then make them harmless. Morally, there neither is nor can be any individual right or liberty that is paramount to that of the community or state; and the lesser must be and remain subordinate to the greater, if we are to retain civilization or to progress in enlightenment.

Those of us who know the law must teach it to those who do not, when that is possible. Those who cannot learn and obey it must be made harmless to themselves as well as to others. This is the very essence of religion and the practice of the charity which Paul presents as the greatest factor in religion.

The use of the intellect in elevating ourselves and our fellowmen on to higher planes of ethical life and living, and removing all elements obstructive of effort in that direction, dealing with realities as they are, and not as imagination or pity would make them, is following the example Deity has set for us, and which is always before us.

ADDENDUM.

In view of a possible misunderstanding of the foregoing paper, I have decided to add a few explanatory words. The subject for the day was, "The nature and causes of crime," "the idea of retribution in treatment of crime," "the deterrent effect of punishment," "reformation—how far the principle acts in treatment of crime."

These propositions involved the whole philosophy of crime. Take notice, the subject is *crime*; not ethics, or offenses against morals or conscience, etc.

No act is crime until it is made so by the supreme power. No violation of the moral code or the commandments is crime in the sense here considered unless municipal law has said it shall be a crime.

God made a garden, put Adam and Eve in it and declared what they should not do. They trespassed on the tree they were forbidden to touch. They stole away the fruit, then acted the hypocrite, lied, and tried to deny it. God made no compromise with them. He said nothing of punishment. He said they should die—that is, civilly. They should go out, and under a new government. And he turned them out, never to return. That is, he put them into a prison from which there was no escape, and where labor was to continue for

life. They abused liberty, and were a menace to the first government and the liberty there, that of the garden.

So with Cain, He did not kill him, He banished him—another form of civil death. He put him on probation for life. This is the example set by God for the first offenders who knowingly violated the first commands of the supreme power.

Here is a state. It declares arson to be a crime. One is convicted of arson. Follow the rule. Let him die a civil death and be banished from society to prison and be put at suitable work. If in time he develops such faculties as demonstrate that he will obey the law, restore him to society. That is more mercy than God showed Adam. If not—like Cain, let him remain in prison.

Right and wrong are considered in the view of crime. There is no *fixed* standard, it changes often. A few decades since, 150 offenses were punished by death; now, only three—treason, piracy, murder. Soon, the death penalty will disappear. It is not a question of morals or conscience, but of statute; and statute is the formulated expression as law of the public opinion. That opinion is the outgrowth of the civilization of a locality. Massachusetts is unlike North Carolina, both are unlike Louisiana, etc.

Mental organism is the existence and arrangement of brain ganglia, as supported by anatomical and physiological organisms. Environment is the surroundings, from conception until birth, and thence on to death; affecting the material, the formation, the arrangement of the organisms first, and making impressions on them, creating mind and impulse to action ever after through life.

One born without faculties for moral perception and conception will be animal, unless after-impressions can create this moral perception and conception. The dominant faculties will prompt the impulses and the actions.

If they prompt to acts which the law calls crimes, the person will be a criminal when convicted. The whole subject must be considered and dealt with as a fact. First, let him, on conviction, “surely die,” like Adam under God’s judgment, a civil death. Cast him out from his fellows, imprison him. Learn his origin and environment, and physical and mental organism, as far as possible. If by any means he can be given any needed, lacking faculties, to assure moral perception and obedience, give him liberty. If not, let him die in safety, and prevent any chance of posterity by him.

No act can be done without a mental impulse. If that impulse is

one of intention to violate a statute, that intention makes it crime. If there be no such intention it is involuntary crime; but the subject may be a menace to order and to liberty. In either case he should be under restraint.

It is claimed there is a "Word of God," a Biblical standard of right and wrong. Grant it, but it is not fixed, and is arbitrary and temporary, and has many hundred constructions. Any violation of any one of the constructions is not crime, unless the statute says it shall be. It is crime we are dealing with, not morals.

Morals, justice, charity, sentiment, religion, etc., come in when the law has acted, when the offender is seized and convicted. Existing methods resort to what is called punishment. This paper goes on the theory of safety first, reform next, believing punishment to be a barrier to reform. Civil death is punishment while it envelops the criminal. But it should be considered purgatorial probation, during which he is being purged, reformed. If the mental and physical organisms are such that permanent moral perception and conception cannot be created in the criminal by training, he should remain civilly dead. If they can be created, with will power to follow their impulses, he may be civilly resurrected, that is, go back to society, liberty and civil life.

The paper deals with crime, punishment, etc., as matters of fact. If we wish to take up the subject of morals we must enter the domain of metaphysics, and that is not the question here considered.

Further. In the law a man is not a criminal until convicted by due process of law; then he becomes a criminal. The paper deals with criminals. The treatment proposed relates to these and to their progeny. The law has no control of a person until it takes him into custody, and it can so take him for crime only on due charge, on oath. Even then it presumes him innocent of the charge until he is convicted on proof beyond a reasonable doubt. When this is done, then the theories of the paper become applicable as to him. As to reformation, it must begin with the statutes.

The SECRETARY.—There is present in the room a lady, an officer appointed to assist in the carrying out of the probation law of Massachusetts, and I would be very glad if you would invite her to say a few words.

The CHAIRMAN.—The new law of probation for criminals, which went into effect in its present form, July 1, 1891, in the state of Massachusetts, has been hailed by thinking men all over the country as a

step in the direction of a general reform of our penal law. We are fortunate enough to have present with us this morning Miss Todd, of Boston, who has had, under the law referred to, and, I believe, under the preceding law, of which it is an extension, an experience, a knowledge of which would be of the highest value to us; and it will be a gift to us if she will favor us with some account of her experience and observation in connection with the paper which we have just heard read.

Miss H. M. TODD, Probation Officer, Boston.—This is so entirely unexpected that I am afraid I shall not be able to tell you what I would like to tell you of this work. My work is just one year old. Probation work in Boston is of long standing, beginning fourteen years ago with a single probation officer. Under the new law relating to drunkenness the probation officer had six assistants provided, to investigate the cases of those released from arrest for the offense of drunkenness and, at the discretion of the judge, placed on probation. In May, 1892, a special law was passed providing for the appointment of a woman to investigate the cases of all women coming before the court on criminal charges. I visit the House of Detention, under the court-house, where all women under arrest are detained in the care of women. I receive from the matron a list of these women with their various aliases. I visit each of them personally, talk with her about her life, her circumstances, and the circumstances of her arrest. In many cases I am utterly helpless; but where I feel that I can be of any use I make special visits. I see the arresting officer, learn from him as much as possible of the case, and then talk with the judge. Where I see fit to recommend any woman for probation, if she has been proven guilty, she is put on probation on my recommendation. If there is a doubt as to her guilt, she is put on trial, and the case is either decided, or continued to enable me to make further investigation. In many cases we find it very necessary to make outside investigation to learn as much as possible of the prisoner's character and home life, and whether this is her first offense or whether she is a criminal of long standing.

Since I began my work as probation officer I have had some 200 women in my care. A large part have done well. I am not prepared to give statistics. I have had some pitiful cases. I have now in my care a woman who has been arrested time and time again for drunkenness. She has been sentenced, her children have been taken away from her, and now, during a probation of four months, she has been entirely free from drink. I have visited her at all hours of the day and night and can see no indication of indulgence in liquor. A gentleman who has had former dealings with this woman said to me that he thought it the most hopeful case of the kind he had ever seen. I also have girls arrested for night-walking and for disorderly conduct. As a rule, I find young girls arrested for these offenses rather hard to deal with, from the fact that they are not yet tired of the life. There is a sort of glamour about it, and unless we can get

hold of them at the very beginning, it seems almost impossible to bring any influence to bear. I remember a girl arrested for the first time. The officer told me he knew very little of her except that he had seen her on the streets at night. He knew nothing of her home. She lived some little distance outside of the city proper, and he did not know how to notify her family. He thought the best thing to do was to arrest her. We talked with her, and it seemed to me a proper case for probation. I therefore recommended it. She plead guilty; there was no trial; we saved her from exposure. I don't think she realized where she was drifting. It is nearly or quite a year ago since I took charge of this girl. I don't think there is the slightest danger of her ever going back again to her former life. The great value of the work, of course, depends upon taking young persons in the first stage of a criminal career. They are practically under sentence, having to report to us at stated times during their probation. I visit them, or try to, as often as once a week, not in an inquisitorial spirit, but in a purely friendly way; and it seems to be a help. My experience in this line of work is not very extended, but it has been most satisfactory.

The CHAIRMAN.—As I understand it, the law which went into effect July 1, 1891, extended the principle of probation to a very much larger class of criminals than it had been applied to before.

Miss TODD.—The law of July, 1891, simply related to cases of drunkenness.

The CHAIRMAN.—Was there not another statute of probation which went into effect at the same time?

Miss TODD.—Yes, sir, including all classes of criminals; probation to be allowed at the discretion of the judge.

The CHAIRMAN.—Is it your impression that that law is a success? Does it diminish crime, or tend to do so? If so, kindly explain the principle on which it works.

Miss TODD.—I should say decidedly that it has tended to diminish crime—at least it will, in time. But it is too new, and there are too few of us to do the work, to enable me to speak definitely on that phase of the matter just yet. The term of probation is altogether too short. In the superior court it is one year, and the probationers report every month and are visited during the month. In the municipal court it is only five weeks, which may be extended from time to time. That is a possible disadvantage, owing to the fact that probationers are required to report to the court at the end of each five weeks. This familiarizes them with the court-room, which I think is bad, because it makes them feel that it is no disgrace to come into court. But the judges are beginning to extend the term of probation. Prisoners can be surrendered to the court at any time during their probation. They know that they are still in the custody of the court, awaiting sentence. The number of surrenders is still large, but we hope to diminish it.

The CHAIRMAN.—You are aware that the development of impris-

onment, as a general form of treatment of criminals, under statute law, has gone on without serious modification until within the last few years. Efforts have recently been made, timidly in Great Britain, somewhat more boldly in New Zealand, and now on a very large and complete scale in Massachusetts, to find a substitute for imprisonment which should give prisoners a more natural life, surround them with the influences of civilized society, and thus prevent the unnatural, degrading, public slavery which is the only form in which treatment can be applied to them in prison. This suggestion stands in striking contrast with the philosophy of treatment of criminals in the paper submitted by Mr. Reeve. It seems to me that the contrast between the two suggests reflections of the highest importance. If Miss Todd, who is a competent person, would consent to write for this section an exposition of the probation law from this point of view and a criticism of its practical working, it would be a valuable contribution to the literature of the subject and a service to the cause we represent.

Miss TODD.—I should be very glad to do so, if I can find the time.

Not all our probationers are in their own homes. Some go to private institutions for a certain term and then to their own homes. For others we get work away from the city. If the home seems a proper place we allow them to go there.

Mr. REEVE.—If at the end of the term of probation there is no improvement in these creatures, what is done with them?

Miss TODD.—They are surrendered to the court and sentenced.

Mr. REEVE.—That is, to punishment by the state?

Miss TODD.—Yes, sir.

Mr. M. M. MANGASARIAN, of Illinois.—I would like to ask Mr. Reeve a question concerning his definition of crime. A crime, he says, is some act forbidden by the government. Some of the greatest men have been criminals according to this definition. Jesus was a criminal; he did things forbidden by government. William Lloyd Garrison was a criminal; he did things forbidden by the government. It would seem to me more correct to say that a crime is an act or an attempt to commit an act with the intent to satisfy some desire at the expense of society; an act which endangers society.

Once more, I would like to ask him to explain himself when he says that "without cause" the first two created human beings became criminals. That is a very strange assertion. I never knew anything to happen without a cause.

And on the same page Mr. Reeve says that crime, cruelty, recklessness, etc., have become worse and worse, until the so-called Christian officers of some institutions have been found indulging in abuses too revolting to name. I would ask him to tell us what he means by that.

Judge M. D. FOLLETT.—I don't think we ought to criticise Mr. Reeve too much, but I would like to know if he has any standard of

right and wrong. He hasn't given us any this morning. No standard of morality! No standard by which to judge crime except that of the law! It seems to me that he has a mistaken philosophy of government. The law is but the expression of what the community believes it to be. When you pass any statute it is not enforced unless the popular consensus of opinion backs it up. What is Mr. Reeve's basis? Why didn't he begin with the statement in the latter part of his paper, that God has given us the law? Where is it? He says that it is not in conscience. Where do we find it, then? If Mr. Reeve's position is right, what is the use of the Massachusetts system of probation? I would rather undertake to upset the whole of Mr. Reeve's philosophy than to reform a criminal, if we have no other ground of hope of reformation than that which he admits. There is no government we can violate except God's. When Jesus says "Thou shalt love the Lord thy God with all thy mind, soul, strength and heart, and thy neighbor as thyself," is that true? Why, there is no other basis of law—none.

Crime is not founded on human law. The basis of crime is deeper. The law of righteousness is written in the very nature and constitution of man. Mr. Reeve says that if you would make a boy good you must create in him a principle. Is that true? Can Miss Todd create in one of her probationers a principle that did not already exist there? Not at all. She don't pretend to. Mr. Scott, of the Massachusetts Reformatory, don't pretend to create anything. He restrains the evil in his prisoners and encourages the good. I meet a friend and treat him rudely. Is there any law against that? None, except what is in my constitution or education. It is not statutory law which says "Thou shalt do no murder." Ohio has not any such law. "Thou shalt not steal"? Ohio has no such law. The statute declares that if you do so and so you are guilty of murder and are to be punished accordingly. The moral condemnation of murder and of theft is anterior to the statute, and the statute rests upon it. The moral sense cannot be created, though it may be educated and developed. I have never seen a criminal so low but he had some good in him. I have never yet seen a man so good that he didn't have something bad about him.

Rev. J. H. NUTTING, Chaplain of Public Institutions, of Rhode Island.—The essay proceeds upon the supposition that crime is the outgrowth of total depravity on the part of the criminal. The gentleman spoke of criminals who have no emotional nature and are devoid of moral sense—"moral perception," he says. Now I have not had to do with rascals so long as Brother Reeve, perhaps, but I have had to deal with some, and I have yet to find a criminal in whom I haven't found, after knowing him for three years, some moral perception and a good deal of the emotional nature. That is fact, not theory. There are under my charge men in whom I have not found this, but I have not known them for years yet. It is there.

Again, what hope is there for reformation or improvement in the

case of an individual who is without an emotional nature and without moral perception? What is the use of putting him on probation? He has none of the elements to which we must appeal in any effort for his reformation. I have found no such men, but if I did find one, contrary to all my natural impulses, I should advocate the restoration of the penalty of death in the state which I represent.

Again, Mr. Reeve says, in so many words, that crime is and must continue to be a factor in the world; and then he proceeds to say that every criminal impulse is an evidence of an abnormal condition of the mental organism. What is a normal condition? Is it a condition in harmony with the consensus of opinion which framed the statute law? and is only that which is in harmony with this opinion a normal condition? Then, as the gentleman said, William Lloyd Garrison was a criminal; and I venture to say that every individual here is a criminal, according to that definition.

Dr. H. F. LEWIS, of Chicago.—I am in accord with the statement that every criminal impulse is evidence of an abnormal condition of the mental organism, if we understand by mental organism the gray matter of the brain. But if you take the psychological view of it, then of course I must dissent. With regard to heredity, we have evidence for concluding that, should a child born of criminal parents be situated in an environment in conformity to the usual customs, the major customs of the community, that child would be what we call moral, in the same degree as any other child in the community; but if he is reared in an environment not in accord with the major conduct of the community, then on that account, in that kind of environment, it will not accord in conduct with the majority of the community. Hence I agree with the criticism of Mr. Mangasarian, and would not say that one who violates a statute is a criminal, but one who knowingly does an intentional injury to another.

The SECRETARY.—I would like very much to hear from Dr. Sims on this subject.

Dr. P. D. SIMS, of State Board of Health, Chattanooga, Tennessee.—I don't think I can add anything to the suggestions already made. In the main, I indorse the spirit of the paper. The answer to the question what is crime is not very well defined in my mind. The dividing line between the criminal and non-criminal classes is not a clean-cut one. It is hard to tell where crime begins and innocence ceases.

As to the philosophy of crime, a number of elements enter into the combination that we call a criminal life or character. There is no doubt that many of these elements are hereditary. We inherit the color of our skin, the color of our hair, the general form of the body. Is it more unreasonable to speak of inheriting traits of character? But we do not get the whole of our character by heredity, any more than we do the whole of our health. A strong, well developed child is born into the world, with the promise of long life. Put that child into a sanitary environment, let all of his surroundings be con-

ducive to health and vigor, and he grows up into a vigorous, healthy man. Take that same child and put him into an unhealthy environment; let him live in constant violation of the laws of health; and you destroy him. I imagine that the psychological nature is governed by analogous laws. I don't think you can entirely eradicate the traits of character that a boy inherits from his parents and from generations back. Some hereditary traits may appear which were dormant in his parents but which existed in his fore-parents.

Now, notwithstanding that we cannot get rid of this hereditary depraved element entirely, it is our duty, the duty of society and of civilization, to throw around every man (around ourselves, if you please) every possible influence calculated to eliminate the bad and develop the good. We are, none of us, all bad, and we are none of us all good. Many men offend against statutory law, and are, in the eye of the law, criminals, liable to be disciplined with a view of correction, or excluded from society. But a man may commit an act contrary to statutory law and yet not be in mind and heart a criminal. A moral criminal is a man who commits an act which his inherent sense of right condemns. If his inherent sense of right condemns that act, he is a criminal in his own eyes, a criminal in the sight of moral law. But if it is an act that he regards as not morally wrong, and yet which is wrong in the eyes of the law, then he is a criminal in the sight of the law. Now, if we can throw around such a man, or I should say such a boy, influences which tend to develop his ideas of morality, and which assist him to gain control of his will; if we can put into him a will to do what is right and not to do what is wrong, then you have started that boy on the road to a pure and upright life.

Mr. D. T. MOORE, of Chicago.—A word was said regarding the standard of right and wrong. Allow me to say that I have never found any standard except that contained in the Word of God.

One suggestion in connection with the reformation of bad men: hide your force behind love if you want to succeed.

Rev. J. H. NUTTING.—With respect to heredity, I think it has much to do with the outcome of matters in this world, whether we believe in a world to come or not. But no man doubts that the heredity of each of us is a mixed heredity. There are antagonistic elements in every individual. We must strengthen by education and culture that which is good, and repress that which tends to evil; and in the end we make a man. Do not say that a man is an automaton because of his ancestry. The power to will is in every man. Sometimes you must wait a good while before you find that strong emotional quality in a criminal, that moral perception for which you seek; but you will find it. I found it in a case which I would like to relate if there were time. The man of whom I speak was the reprobate of the prison. Every guard was on the watch for him, every guard feared him, until his throat was cut by a fellow-criminal. Then he learned that he would be treated with kindness for the sake of his

humanity, and the discovery woke him up. He said afterwards that he had never supposed there were any good people in the world. When he told me his history, I didn't wonder. If I had started out that way I think I would have done about as he did, or worse. Let us be careful when we speak of heredity to dismiss from our minds the thought that there can come to any one from his parentage an unmixed evil nature. It is impossible.

Mr. H. C. NUTTING.—Mr. Reeve, as I understand him, advises us to take persons with pronounced tendencies to crime and separate them from the rest of mankind, in order that they may not themselves commit crimes nor leave a posterity to follow them. But you have no right to restrain any man except in the interest of justice. You cannot say that because a man has committed a crime, or shows a criminal tendency, he shall therefore be permanently restrained. Imprisonment can only attach to crime as its just and lawful penalty; it must follow the act. To treat a man of sane mind otherwise is to overthrow the foundations of society. Therefore I think that his theory is simply in the air. We punish a man for what he has done. The only way in which we may bring other forces to bear upon him is along the line of the probationary scheme mentioned, by which we do not at all abrogate the power to punish vested in the state, but we do temper justice with mercy, which we have a right to do.

The CHAIRMAN.—The great difficulty with government by law is that it can only deal with the outward act, while the laws of nature and of God perpetually deal with character and motives. Hence the confusion of thought which characterizes so many attempts at reasoning on this subject. In dealing with crime by law or by organized charity it is not necessary for us to confine our attention to either of these two aspects of crime. We must needs frame something like a practical compromise between them. It seems to me that the essayist presents but one side of the question. We know from observation and from practical experience that not all crime is congenital, that not all criminals belong to a type which can be discriminated by heredity or constitution as a distinct class from the rest of the human race. Take any ordinary man, educated in moral principles and with a moral nature as good as that which belongs to the average citizen of probity and usefulness; that man may, by circumstances, be brought under a temptation so strong that his will is powerless to resist it. He violates the law. He is a criminal for the time being. How are you going to distinguish him from the man who commits the same act in consequence of an impulse born with him, which taints his whole character and renders him incapable of reformation? How are you to distinguish between congenital and sporadic crime, crime which is the expression of a man's nature, and crime which is forced upon him by circumstances?

Mr. REEVE.—The whole discussion has proceeded on the basis of ethics and not of law. The subject under consideration is the prevention and limitation and punishment of crime. Crime is the viola-

tion of the law. There may be moral offenses, offenses against the laws of God and society, against the conscience and the heart; but they are not crimes, so long as they are not forbidden by human statutes. Now, what is the philosophy of crime, thus defined? A man who is so villainous that he violates the law knowingly and is a danger to the public must be put away. You must put your hand on him as you would on a mad dog or a leper or a small-pox patient; put him where he can do no harm. In putting him there, exhaust every means of information to learn who he is, where he came from, what has been his environment, what is his intelligence, his degree of moral perception, his idea of God, of religion, of society. Let the record go to the prison with him. There let the physician examine him to see if there is any physical defect, and repeat the examination from day to day until he finds his physical, mental and moral level. Find if there is anything you can build on. In a case of physical disease, the physician often finds some constitutional peculiarity or acquired habit that he cannot reach with any remedy at his command. So it is with this abnormal criminal character. A character is abnormal which is not balanced. If the prisoner's moral, physical and intellectual forces, his perceptions and conceptions were balanced, he would have the capacity and find the way to adapt himself to his environment. And what is his environment? It begins at the hearthstone and follows him through life. Who made it? He didn't make it. It was made for him, just as his brain and nervous structure were made for him. Impressions are made upon that organism by those who have charge of him from the time of his birth until he reaches maturity. They develop his character, his impulses are in accord with his character, and his acts follow his impulses. It is not a question of ethics.

Take a child when it is first born and separate it from humanity and it will know nothing about ethics. What is education but the acquisition of knowledge? How can you get any benefit from it? By making practical use of it. What is practical use? Its application to the surroundings in which you may be placed; a practical man takes advantage of his opportunities. You must make such use of your education as will benefit society, because what is best for society is best for you.

Where is my friend, Judge Follett of Ohio? I have a little shot for him on the matter of a permanent standard of right and wrong. It is but a few years since the greater the truth the greater the libel. I might libel anybody, and the more truth I told about him the greater my punishment, and if indicted, I was not permitted to prove the truth of my statements in self-justification. How is it to-day? It is the reverse. What was the standard of right and wrong then? The greater the truth, the greater the wrong done. Now you are justified in the publication, if it is true. It is no wrong at all. You may say anything you have a mind to about a man, if you can prove it to be true. That is the new standard in the criminal code.

But the civil code sets up still another standard. If you plead justification, you can't go into court under the rules of the civil law and prove your case by preponderance of testimony. You must prove it beyond a reasonable doubt. That standard will also be changed in a few years. When I say there is no fixed standard of right and wrong, I mean that the changing standards upon the statute books reflect the changing opinions and impulses of humanity.

A man with a criminal diathesis cannot be prevented by ethical considerations from committing crime. He has no perception of right and wrong. When you find out what he is and who he is, put him in prison, make him as comfortable as you can, and try to find his moral level. If you can educate him up to a conception of his responsibility to society, do it. If you can't, keep him under restraint, as you would a small-pox patient, a leper, or a mad dog, until he ceases to be dangerous, whether cured or otherwise. That is all there is in the philosophy of dealing with crime, and the failure to distinguish between an ethical wrong and a conviction for crime under the statute has led to this whole discussion.

The section adjourned.

THIRD SECTION MEETING.

WEDNESDAY, JUNE 14, 1893, 2.30 P. M.

The CHAIRMAN.—Our first paper this afternoon will be by Baron GAROFALO, a member of the Italian Congress and an author of some note. His paper will be read by Mr. Round.

Mr. W. M. F. ROUND.—Baron Garofalo, I remember, took a prominent part in the Prison Congress at Rome and has been connected with the administration of justice. He is himself a magistrate, a member of the Legislature of Italy, and he has written one or two extremely suggestive works on this topic.

NEW THEORIES OF CRIMINOLOGY.

BARON GAROFALO.

During the last ten years many writers have applied themselves to questions of criminality. Such studies have excited universal interest, because everywhere in civilized countries, or even in half-civilized countries, the organization of crime makes progress and threatens the peaceful activities of life. Swindling, theft, and even assassination, have become real professions, favored as they are by the aggregation of population in great towns, by the wonderful rapidity of communication, and by new scientific inventions, and facilitated by the weakness, the disconnected efforts, and the indifference of governments and popular sentiment in the treatment of criminality.

As I have said elsewhere, neither laws nor governments care enough for such questions, nor employ adequate means to counteract the new strength of criminal associations; nor do they protect with sufficient vigor injured citizens against unrighteous neighbors.

In all civilized nations, killing, except in self-defense, should be unknown save in memory of old and savage times. The more manners are softened and life is eased, the more hideous and dismal becomes the sight of murder, fire and plunder. Those who have not examined the statistics of crime commonly believe that such crimes are rare and do not demand vigorous effort to suppress them, but a study of statistics lessens the sense of public security.

It is shocking to learn that even in the most civilized countries of Europe there are yearly some thousands of murders, that from 1881 to 1887 the average number of murders for each year was, in Austria 689, Hungary 1231, Spain 1584, Italy 3606, Germany 577, France 847, Belgium 132, Holland 35, England 311, Scotland 60, Ireland 129; total, 9208. Statistics are not at hand for other countries; it is said that in Greece the annual murders are supposed to reach 1000, and a newspaper in the United States estimates the number there at 3000. These last two figures are but approximate, of course, but they are probably within the truth.

In the matter of crimes against property, I can only give for a few nations the number of those accused of thefts and robberies, namely, Belgium 11,000, France 46,000, Germany 146,000, England 50,000 and Italy 125,000. It is certainly no exaggeration to say that every year millions of dollars are stolen from honest people, and that robbery is often more lucrative than honest labor. Let us illustrate this by some known figures. In Italy alone, in 1889, there were 1372 convictions of theft or embezzlement of sums amounting to 2,458,578 francs. Assuming that the number of the guilty was greater by one-third than of the crimes, the proceeds must have been shared by 1829 persons, and the average share of each was 1343 francs. But it is known that not more than a third of those guilty of theft are detected and arrested, and a third of those prosecuted are acquitted for want of sufficient proof. It is fair to infer, therefore, that the average profits of each thief are at least 4000 francs. When we remember that the average workman hardly ever possesses at one time much more than his weekly wages, we are forced to the painful conclusion that the gains of the thief are commonly greater than those of the honest laborer. But this estimate takes no account of the vast sums acquired by swindling, embezzlement, fraudulent bankruptcy and breaches of faith, amounting every year to untold millions of francs, which represent profit and luxury to the criminal, privation and want to the honest victim.

But all this mass of wrong, suffered by the best part of the population, for the gain and enjoyment of the worst, are not enough to awaken the community to the shameful infirmity of our civilization, and to the necessity of devising remedies. Parliamentary debates are full of political trifles, but are commonly silent on this great demand for statesmanship. Lawmakers and rulers think that they have no more to do in suppressing crime, when once a police force

has been charged with its detection, and statutes passed for its punishment. Very few citizens indeed give careful thought to the question how far these agencies are efficient in preventing and suppressing crime.

A principal cause of the weakness of the state in its dealings with criminals is to be found in the false view commonly entertained of the real problem to be solved. Until of late, the science of the subject was regarded as the exclusive province of the legal profession, to whom civilized governments have generally assigned the whole duty of framing penal laws and of administering them. Certain propositions were assumed as indisputable, and practical inferences were drawn from them, and enforced, without previous experimental study. The laws were founded on the classification, not of criminals, but of crimes; not of offenders, but of individual acts, according to the supposed extent of the injury they inflict. The inductive or experimental method, by which all other sciences have attained their progress, was left untried by the authors of these codes. The necessary result has been that their theories, however logical and consistent they may appear, have no practical value, and utterly fail to meet the needs of society.

It would seem that the first step in such studies should be an investigation of the most suitable measures for the daily struggle in which every nation finds itself against its internal enemies; but we cannot know the fitness of measures any more than that of weapons until they have been tested. Knowledge of the criminal, who is the enemy, should evidently precede any theory in the matter; and this, in the preparation of penal codes, seems to have been quite forgotten. The criminals themselves seem to have been the last thing studied by the authors of penal laws. No wonder then that the latter missed their aim, and are now obliged to witness the undisturbed growth of criminality.

The new theory to which I have given the name of Criminology (Mr. Ferri calls it Criminal Sociology) is confined to those infractions of right only which are everywhere in civilized nations considered crimes, that is to say, those acts which hurt the deepest feelings of man, especially his feelings of benevolence and equity. I have put aside those injuries which proceed from bad education or roughness rather than from wickedness. Having so chosen the *natural crimes*, as I call them, I have tried to study those persons who alone are likely to commit them, and to ascertain if possible the cause of

each crime; whether it be a degenerate feeling, to be imputed to psychical heredity, or a bad education; or alcoholism, or moral insanity, or moral paralysis; a passion or epilepsy; ignorance or superstition.

Thus I have tried to divide criminals into classes, discriminating them by typical characteristics, especially those indicating a peculiar moral anomaly. Lombroso applied himself to discovering physical and pathological anomalies. Many of these are still doubtful, and I am obliged in studying Lombroso to question the exactness of his observations concerning the physiognomies of murderers and thieves. Certainly no one would think that these characteristics, other things being equal, would suffice to distinguish criminals from other people, though they undoubtedly reveal a peculiar organization of mind and feelings which is likely to produce a criminal character. It is indisputable that these two classes of criminals are easily distinguished by their countenances.

But the most important part of our research is the study of criminal psychology, which has convinced us that a great proportion of criminals are incapable of reformation. Thus a rude blow has been given to the theory of correction founded upon the possibility of improving criminals, and mitigating punishment in the hope of reformation. There are certainly several classes of criminals, especially the very young, for whom moral improvement may be hoped. In these cases, however, it is not by imprisonment or penal servitude that any success can be gained.

Whenever criminals are clearly shown to be anomalous and unreformable, it is the duty of society to eliminate them by the death penalty, unless they be proved insane, and then to imprison them for life. So long as there exists such a monstrous thing as murder, the death penalty cannot be put wholly aside, and the nations which have abolished it have made a lamentable mistake.

As concerns the other and less dangerous classes, punishment must be shaped in a manner wholly different from our present systems of penalties. Temporary imprisonment is of no avail for alcoholism, bad education or general moral neurastheny, the origin of mischievous tendencies. They will return as soon as the penal servitude is ended and the prisoner finds himself free again under the same environment as before the trial. As nothing is altered about him, and his old friends and companions are still the same, he will soon forget his punishment and renew his old life. So it happens that

thousands of thieves, swindlers and counterfeiters dwell in every large town. They assemble fearlessly in public houses which are well known to the police. They have no means of support but crime, and every one knows that they cannot be arrested and so rendered harmless, because they are not detected in the actual commission of crime.

A good service would be rendered to society could a means be found to prevent a fortuitous delinquent from becoming an habitual one. Instead of imprisoning him for a time, if he be not of a dangerous type, it would be of far more avail to convince him, by his own experience, that a mischievous activity is less profitable for him than an honest one. Therefore the delinquent should be obliged to make restitution of all that he has stolen and amends for the harm he has done. He should, moreover, be obliged to pay something for the trouble he has given to the injured and to society. If he has no money he should be made to work, for the benefit of the wronged party. No rest should be granted to him until his victim be indemnified. He might be obliged to work his life long, but if he shows a willingness to pay his debt he may enjoy freedom. Otherwise he ought to be confined, not in prison, but in a public workhouse, and his confinement should only end when he has accomplished his duty. The duration of his punishment would thus depend upon his activity and assiduity in work. No guilty man could then hope to enjoy the fruit of his crime, as he might quietly do under our present laws, which grant him freedom as soon as his term of punishment is over. Herbert Spencer, explaining his general views of penal law, proposed that imprisonment should cease as soon as full reparation is made; but this proposition must be confined to cases in which the delinquent does not belong to the dangerous class.

Psychological observations give us the means of discerning between such criminals as are thoroughly incapable of life in society, and those who may become fitted for it. In the last case, imprisonment could be remitted when the wronged party is fully indemnified, or when the delinquent exhibits his ability and purpose to make such indemnification.

Habitual offenders, when very young, should be confined in colonies or workhouses. *Not, however, for any fixed time*, but until their moral reformation is ascertained. As for those who are no longer in their youth, there is nothing to be hoped from them, and the only remedy is to convey them to remote and savage coun-

tries where they should be abandoned forever. In all cases confinement in prisons for a previously fixed time can have no other effect than to allow the rascals to live at the charge of the state.

It is impossible to give in a short article the detailed scheme of the penal system which a scientific criminology would propose. Its general principles may, however, be understood by the following brief explanation: Rather than consider in itself the single act of crime, the new criminology would value it as the expression of a criminal character; and rather than give every crime a fixed penalty, it would try to render the delinquent harmless by influences adapted to his nature. As the criminal would be described as an anomalous being whose actions might be foreseen, the new criminology may be reproached with denying the free will of man and overthrowing the idea of moral responsibility, which, as they say, justifies penalty. Let me remark, on the contrary, that penalty cannot be founded upon moral responsibility. Indeed, the consciousness of our free will does not go so far as to permit us to think that we have the power of feeling at a given moment differently from what we really feel. Our character is shaped, indeed, by a series of precedent facts, the most of which are unknown or forgotten by us at the moment when the determination to act takes place. We choose then to do what we think most suitable, but our choice is determined by our own kind of thinking and feeling. Add to this our bodily constitution and the influence of exterior circumstances on our peculiar temperament. This must be acknowledged by any one whether he be a believer in free will or not. Therefore, to found responsibility upon free will leads logically to the consequence that no one is thoroughly responsible for his own actions. How would it be possible, indeed, to appreciate the numberless circumstances which may influence our will?

To consider penal responsibility as an effect of free will, and to proportion punishment to moral responsibility, is indeed a very dangerous theory. Society ought to be grateful to the criminologists for having put aside the theories of penal philosophy which the jurists have taught until now, and upon which our penal laws are based. Uninitiated people could not understand the absurdity of conclusions to which the jurists have come, in presuming to classify the circumstances avoiding or lessening responsibility. On the ground of extenuating circumstances, advocates have excused the most atrocious crimes. Drunkenness, alcoholism, epilepsy, hysterics,

and all kinds of passion, ignorance, poverty, moral insanity (which is nothing else but absence of moral sense), everything has seemed a good excuse, especially in France and Italy, where the penal laws agree more than in England with the ideas of the theoretical jurists. They have gone so far in Italy as to defend habitual crime, because it is said that the guilty man, having been demoralized by the shame of prison and the bad example of his fellow-prisoners, has less moral force to resist temptation, and his will is therefore not free to avoid new crime.

From their point of view the jurists are perfectly right, since such circumstances lessen the moral responsibility; but they are quite wrong when they forget the social side of the question, that is to say, the necessity for a civilized nation to fight criminality whatsoever may be its causes or its excuses. Therefore, responsibility must not be considered as proceeding from free will. The author of a crime must always be held responsible for it whenever it results from his own character, whether due to heredity and education or to environment. What we need to know in order to hold the culprit responsible is only that his nature is prone to criminal actions.

The idea that punishment should be in proportion to the gravity of the crime is another dogma of the jurists' theory which on experimental ground proves inadequate. There is no sure criterion for the relative gravity of crimes, and if there were, it would have no practical importance. It is almost useless to graduate criminal acts according to their presumed gravity, and it is impossible to graduate the penalties correspondingly. What is required is to compare the perversity of the different criminals. To appreciate this, the acts must certainly be inquired into; but their gravity represents only one element in the diagnosis. Instead of this criterion the new criminology puts forward another, namely, that of the possibility of adapting the guilty to social life. In every case of crime there should be sought the solution of the following problems: What is the degree of perversity of the guilty? What is the degree of adaptability to social life which he may still be presumed to possess? Thus only would penal science be useful to society, because when we foresee what we have to expect from the criminal it will be easier to find the means of restraining him. Such a criterion leads to consequences very different from the current penal theories of jurists. We condemn the subtle distinctions which many jurists have made between the accomplished and the attempted crime, when the latter is equally malicious and dangerous.

Several things that are reckoned as extenuating circumstances are for us, on the contrary, a reason for making the penalty more severe, such as; for instance, drunkenness; and on this subject we plainly agree with the English law. Besides, the absence of premeditation is not a reason for mitigating the penalty for murder. The worst criminals may commit a murder without premeditation, and the contrary too may sometimes happen.

It is of no less importance to consider how false are the ideas of the jurists about trial. If what I have already said applies more especially to the penal theories predominating in France, Italy and Germany, many of the laws of procedure are derived from England, and we must admit it is not the best gift that this great nation has made to the world. It seems to me that the system of public accusation and the institution of juries are survivals of a past age.

The judicial contest between a prosecutor and an advocate is something like the Middle Age "judgments of God," in which weapons were substituted for rhetorical insinuations and cavilling. Only a patient, undisturbed inquiry by a justice who will impartially examine the accused, the party wronged and the witnesses, can give certainty in the discovery of the truth.

So far as the discovery of the truth is concerned, judicial debate generally proves prejudicial, because a momentary impression prevails over common reason.

The publicity of such debates operates besides in a very unhappy way on popular morality, as it may initiate simple and inexperienced souls in all kinds of evil and monstrous deeds. The newspapers co-operate unhappily in this lamentable work. According to my views, for every offender there should be an inquiry made by public officers. This inquiry should be *ex officio* controlled by a justice, and renewed as long as there is doubt, or the accused pleads his innocence. When by all due means the fact is undoubtedly ascertained, there is no impropriety in suppressing the debate between the parties.

What remains to be done is to make a diagnosis almost as for a disease. It is necessary to examine whence the culprit's peculiar kind of criminality proceeds, what its symptoms are, and what may be foreseen in regard to its further development. Lawyers have nothing to do here. There is no occasion for accusation or defense, nor for talk either of severity or of mercy.

There is but one thing to be sought, a suitable means of repression, that is to say, means to render the criminal harmless if he be dangerous, and to force him to indemnify the wronged party if his crime is one against property. This should be the business of magistrates chosen from competent students of anthropology, psychology, statistics, penology and criminology.

Juries are quite inconsistent with an improved system. The jury is an old institution which may formerly have been useful for political reasons, but at present it is inconsistent with the prevailing idea of our time, the necessity that every kind of work be done by those who have special fitness for it. Public officers no less than private workmen need special training and special studies.

Why should an exception be made of juries? How can a body of untrained laymen be supposed best able to decide upon the cause of death, when murder is suspected, or whether an accused person is insane or incapable of reform, or how he should be treated to secure his reformation? Why not entrust such inquiries to persons who have special knowledge and training? Juries are generally ignorant and impressionable. They have given almost everywhere the most lamentable results. Besides, they are often cowardly and weak. In some of the provinces of Italy, for instance, it is very difficult to get brigands condemned by them. In some others they owe allegiance to and obey the mandates of political schools. In France, as M. Tarde says, they let themselves be influenced by a spirit of contradiction, by party feeling, by the press, or by the audience. According to the statement of M. Silvelo, the acquittal of wealthy culprits is almost sure. It seems that in Russia when a jury is composed of countrymen, anybody accused of stealing horses may be sure of being condemned. On the contrary, he who is accused of perjury has a great probability of acquittal. It has been remarked besides that in all countries juries are particularly merciful towards the kind of crimes that happen the most often and which therefore require energetic repression. In America those summary executions called lynchings are the best demonstration of the insufficiency of legal proceedings. Often in England much fault has been found with juries, and threats have often been supposed to influence them. M. Tarde remarks that when a government wishes to secure the execution of laws it is necessary to put juries aside.

Permit me, in conclusion, to say that the time has come, I believe, to transform, in all its parts, judicial procedure, in order that trials

may cease to be theatrical plays, and become quiet investigations of the criminal's temperament, mental, moral and physical, and an application of the remedies suggested by the new experimental science of *Criminology*.

The CHAIRMAN.—Remarks upon this paper are now in order. There being none, the section will be addressed by Dr. WINES.

THE PAROLE SYSTEM.

FREDERICK H. WINES, LL. D.

I have been asked to say a few words with regard to the parole system.

The parole, sometimes called ticket-of-leave, is the conditional liberation of a prisoner, prior to the expiration of the sentence pronounced upon him by the court. It differs from a pardon, inasmuch as a pardon is an absolute release. It differs from the shortening of sentence under the operation of what are called "good time" laws, because, after a prisoner has earned the commutation of his sentence by good conduct while in prison, he is then absolutely released. But under the parole system he is placed out in the world merely to be tested. The state reserves to itself the right to rearrest him, reincarcerate him, and compel him to serve out the unexpired term of his sentence, in case he violates the conditions of his parole.

Now, this form of release is essentially a modification of the sentence originally pronounced. It is, therefore, like all other forms of change of sentence, antagonistic to the public impression that the penalty of crime is and must be a fixed quantity. If it were possible for us to measure crime on the one hand and punishment on the other, and so to adjust punishment to actual guilt that the operation of the criminal law should be absolutely equitable, there would be no room for pardon, which is the remission of penalty, or for the abridgment of sentences as a reward for good conduct in prison, or for the parole system. If the sole basis of the criminal law is retribution, both human and divine justice require that the penalty of violated law should be exacted from the offender, and no sentence once pronounced should be subject to modification by the act of any branch of the government, legislative, judicial or executive.

Accordingly we find that the parole system has made its way with the greatest rapidity and confidence in countries where the idea that

retribution is the sole purpose of the criminal law has been most thoroughly exploded. Where the retributory character of the penal code is most insisted upon, there the people, the courts, and the doctors of law in universities are reluctant to accept the parole in theory. Even where it has been put in practice, in a number of European countries, where advanced ideas of penology are not yet accepted, the parole is in practice a very perfunctory affair. It is granted to a very few prisoners, under many restrictions and with great difficulty, more as a matter of favor than as a matter of right, and it bears no fixed, invariable relation to the good conduct of the prisoner or to his reformation—his surrender to the ameliorating influences brought to bear upon him in the hope of qualifying him for rehabilitation as a citizen.

In this country the parole system has been attacked by the supreme court of the state of Michigan as contrary to the constitution, on the ground that it is an interference with the exclusive jurisdiction of the courts, which alone have the right to determine the degree of guilt and fix the penalty, in amount as well as in kind. The sentence pronounced by the court cannot be diminished or set aside, except by the executive, in the form of a pardon. The conditional liberation is either a pardon or not a pardon. If it is a pardon, then the Governor alone has constitutional power to issue a ticket-of-leave. But if it is not a pardon, such issue is neither in his power nor in the power of any one else. That is a possible legal view of the question, but it appears to me narrow and inadequate. It is certainly technical. The courts, in the majority of the states, do not hold it.

The ticket-of-leave is not a pardon. It has none of the elements of a pardon, except the shortening of the term of incarceration. But a pardon is an absolute release, which conditional liberation is not. In fact, under proper criminal legislation, every sentence for crime includes in itself the possibility of its being shortened. In nearly every state in the American Union, sentences are imposed subject to the operation of a statute of commutation, which provides that the convict may abbreviate the duration of his term of imprisonment by submitting to the rules of discipline established for his government while in prison. This is an acknowledgment of the principle that a court may pronounce a sentence which is flexible and adjustable. Our so-called "good time" laws declare that the prisoner's term shall be arbitrarily shortened by from one to ten days in a month, or by a month in a year, or by one-half of the time after the expiration of a

given number of years. The parole law declares that the prisoner's sentence can be shortened, at the discretion of the prison authorities, within certain limits, when they are satisfied that discipline has performed its work and that it is safe to discharge him. In the one case, the privilege of commutation is part of the sentence; in the other, the privilege of parole is part of the sentence. The sentence is not set aside in either case. If the statute of parole is an invasion of the jurisdiction of the court, so is the commutation law. Both are founded upon the expression of the popular will by an authority higher than the courts, namely, the legislature; and if one is unconstitutional, it is difficult to see why the other is not equally a violation of the constitution. I believe that the parole system is neither an infringement upon the prerogative of the executive—the prescriptive right of pardon, nor an interference with the judiciary by abrogating a sentence pronounced by the courts. The courts in pronouncing sentence under that law pronounce a sentence which contains in itself a certain reservation; and that reservation being the same for all prisoners without distinction, there is no inequality in the actual sentences.

Now then, with regard to the connection between the parole and the indeterminate sentence. This connection seems to me to be vital. Under any system of definite time sentences the parole is an anomaly. It is hard for me to reconcile it to my inner consciousness of the harmony and fitness of things. But if the indeterminate sentence is substituted by law for the time sentence, then the parole becomes at once an essential element or feature of the new system, because the indeterminate sentence presupposes that a percentage at least of convicted criminals is corrigible. It presupposes that the discipline of the prison will be organized and carried on with reference to their reformation, and that it will be adapted to secure their reformation. It proceeds upon the assumption that this reformation will, at some time or other prior to the expiration of the term of incarceration, take effect, and that the fact that it has taken effect will be apparent to experts—either to the prison officers themselves (if the power of parole is lodged in them), or to some judicial tribunal (if the power is lodged in a court which acts upon the evidence submitted to it by the prison officials). The test of reformation can only be the conduct of the prisoner. Any number of tests may be applied to him while he is still in prison, but the supreme test is after he has left the prison and has resumed his place among other men, where he is exposed, as the rest of us are, to the temptations of ordinary

life. Until the exhaustion of all the tests prescribed by law in or out of prison, the convict is still in the constructive custody of the government, even though temporarily at large.

The parole system therefore means that the prisoner, after having been tested as thoroughly as he can be tested in a state of incarceration, shall be tested in a state of partial liberty; and, if he endures that test, he shall then be granted his absolute liberty, to continue his part in the work and struggle of life, just as he would have done if he had never been incarcerated. His citizenship is completely restored.

In this system the indeterminate sentence is the first element, reformatory discipline the second, and conditional liberation the third. The three are logically and inseparably connected. While I accept it as heartily and advocate it as earnestly as any man can, in the sense of an ideal to be striven after, I have at times, and can not refrain from expressing, grave fears as to its practical operation, arising not from anything in the system itself, but from my apprehension that in practice it may not be carried out in its true spirit, purport and intent.

In the first place, wherever the power to remit penalty is lodged, there is something valuable which can be given away on the one hand or which may be sold on the other. Not even the Governor of a state is always free from the imputation of having granted pardons to convicts from improper motives, for a consideration—not necessarily for a pecuniary consideration, it may be for a political consideration. It is doubtful whether any governor who is a thorough-going, thorough-paced politician does not sometimes recognize the expediency, from his point of view, of pardoning the friend of some influential politician, who is a central factor in some combination, either legislative or political, the success of which the governor desires. Where the governor himself is absolutely free from the imputation of having made an improper use of the pardoning power, it is certain that convicts often pay money to other parties for the purpose of securing their influence with the governor, and such influence is sometimes brought to bear upon his mind without his knowledge, so that the ends of justice are frustrated through pecuniary corruption. But governors stand very high in the public confidence, much higher than an average member of the legislature; as high, or nearly as high, as many judges. They are supposed to occupy a position so far above the ordinary temptations which beset

other men that they are practically incorruptible, and we do not suspect that pardons are freely bought and sold in the market. It would, however, be very much more easy to be corrupt in the matter of commutations of sentence than of pardons, because commutations of sentence do not attract the public attention which pardons do. There is never the outcry against them that there is against pardons.

Now, the prison officer, if the power of virtual remission of sentence is confided to him under the parole system, (the sentence of the prisoner being indeterminate), is in a position where, if he is a corrupt man, he can very easily enrich himself. The danger therefore is that the political warden of a political prison, destitute of previous experience, with no special fitness for the position, but receiving it as a reward for political services, may chance to be a man who would think it right and proper to take bribes, in some form or other, for granting the certificates of character upon which paroles are based.

I feel, as my father felt, and as he often expressed himself, that the indeterminate sentence and the parole system imply the complete surrender, abandonment and overthrow of the entire system of political appointments in the government of prisons, and I am fearful that, if the new system were introduced in a state where political corruption is rife, where the penitentiary is under the control of politicians, and the public acquiesce in such control, the introduction of this system would lay the foundation for a form of corruption of which we have heard little or nothing heretofore, and which would not be possible under the definite sentence.

But that constitutes a very small part of the ground of my apprehension with regard to its general and premature adoption. There is the further danger that ignorant legislators, when requested and urged to adopt it, will so tinker with the bill introduced by some man who really understands the question, as to destroy the system itself in the very law which creates it. Take, for instance, the Ohio law. It is defective, in that it allows the friends of prisoners to make application to the prison authorities for the parole of prisoners. There is reason to believe that, in its practical administration, paroles are largely granted as the result of outside influence, in response to political pressure, with very slight regard to the record of the prisoner in the penitentiary. If so, this defect in the law is fatal. The whole system is so complicated, the parts of it are so interwoven with each other, and the action of this part so depends on the action of that, that it can be compared only to a powerful and ingenious piece of

mechanism which can be successfully operated by the engineer, but not by an ignoramus or one not an expert. No! our legislatures are, in the first instance, liable to destroy the system by their failure to plan it properly, so that all its parts are well balanced, interdependent, related to each other; and then, supposing the law to have been wisely and well framed, there is the further danger that the men appointed to administer it will not comprehend it, and will not administer it in its true spirit and intent.

The state of Illinois has passed a law creating an adult reformatory in connection with the reform school for boys at Pontiac. I am a little afraid to say—I don't quite dare to speak out and say all that I think with regard to that law and with regard to its administration, for fear that I might speak unguardedly and do some one an injustice. But the law and the operation of the law are, to my mind, very unsatisfactory.

If you have a man at the head of your prison who is not a disciplinarian, who is not an educator, whose moral character is not all it should be, whose life is not an inspiration, and whose example is not wise and salutary, how can you successfully administer any reformatory system? The difficulties in the way of the administration of the parole system, under the indeterminate sentence, are so great that, if a wise and experienced man were to go even to that model institution—for we regard it as a model, and claim that it is a model institution—the reformatory at Elmira, and explore undercurrents not open to public view, but which exist; if he could fully realize the embarrassments with which Mr. Brockway has to contend, and know all the expedients and devices by which he overcomes those difficulties, encourages himself when he feels like giving up in despair, and encourages his prisoners when they are ready to give up, he would discover that, even for a man with a touch of genius like him, so devoted, so brilliant, so earnest, the administration of that system is a fearful tax. Multiply Elmira, take it as a model, imitate it, and then put in charge of them fifty or one hundred men in charge of similar institutions, picked up from ordinary life without training, without experience, and given their positions as a reward for political services by politicians who have political ambitions which they hope to gratify by these appointments. How is the system to be well administered under such conditions?

And yet as a theory, as an ideal, every principle upon which it rests is a sound principle, and the combination of them is as perfect

as anything human can be. The principle that the prisoner is to be treated according to his individuality is sound. The principle that the treatment to be accorded him is to be directed to his weak points is also sound. If his body is his weak point, deal with him physically. If his mind is his weak point, deal with him mentally. If it is his heart (and generally that is the weak spot), deal with him morally. Deal with him as an individual, a man, a whole man, and never forget that any man may be uplifted, even the most hopeless. The whole process of reformation is one of education, of development, of complete development, of symmetrical development, especially of development of the power of self-direction and self-control. You must test the development of character in these persons. You can test it in the ways in which Mr. Brockway says it can be tested. You can test it by mental progress in education, by physical growth in size and power, by the increased earnestness with which the prisoner does his work. These are sound tests; and when the reformed man is fit to go out, no longer a menace to society and there is hope that he will earn an honest living and take his part in the work of the world, he ought to be released. But there ought to still be a hand, a strong hand, upon him, so that you can grasp him and bring him back. These, in a word, are the Elmira principles. No fault can be found with them. But only a wise man can apply them effectively in dealing with convicts. The work is one of great difficulty; and the longer I think about it, the more deeply I ponder it, the more deeply I appreciate it.

It was my pleasure to lecture to the students of the University of Madison, Wisconsin, last winter, on crime and criminals. I did not fully express the thought in my mind. showed them that human retribution is a failure, as the whole history of the world proves; that punishment does not always punish. I might have added that reformation does not always reform, and that prevention does not always prevent. The struggle in which we are engaged is gigantic, herculean. We are endeavoring to roll up the stone of Sisyphus, and it is forever rolling back upon us. It is like the struggle of the medical profession with disease and death. I look at the physician with admiration. Here is a man who is fighting a lost battle. He knows that it is a lost battle. There is not a patient on his entire list who will not die, in spite of all his wisdom, his skill, his energy; and yet he fights on, because he knows that even though he cannot put an end to death, he can at least alleviate the pain of life; he can pro-

long life a very little; and the small success that comes to him is his compensation for the struggle, sacrifice and endurance which characterize the noble men in one of the noblest of all professions.

It is so with regard to all social evils. I think it is so with regard to all moral delinquencies. We fight a battle in which the victories are not so marked nor so numerous as the failures. Nevertheless, we have much to inspire us, to encourage us and keep us from fainting by the way; and we must cultivate hope, we must do the best we can. We do not expect any social evil to be eradicated by any radical or mechanical process. The tares will grow with the wheat; if we undertake to root up the tares suddenly, we are apt to root up the wheat with it. We must therefore exercise a wise patience, and trust largely to the ameliorations which come only with time and the gradual uplifting of humanity. The slow reformation of society will come by the processes of nature and the will of Almighty God, rather than by any effort which we have the strength to put forth. Still we must continue to put forth that effort. The parole system is the ideal system, and the promise of the future, in the advancement of prison discipline, lies wholly along its lines.

MR. ROUND.—The scheme of the Elmira Reformatory originated with the Prison Association of New York, as you very well know. The charter, which has never been changed, was written by the president of the Prison Association, the late Dr. Dwight. I know of no man who has watched and studied more carefully the practical development of this scheme than the chairman of the executive committee of the Prison Association of New York, who is here to-day, and is now also the president of the Prison Association of New York. I should be very sorry if we, for the sake of keeping our chairman in the chair, should lose the present opportunity of hearing from the president of the Prison Association.

THE CHAIRMAN.—Mr. Wines' remarks suggest a wide range of discussion, on which very much might be said that would be of value, if we had time to go into it. They lead directly up to a question of vast importance, which is beginning to occupy the minds of all those who are concerned with the subject of penal law, and which is destined to be the center of earnest controversy for years to come, with a view to the entire reconstruction of the principles and processes by which society deals with criminals. We have not done with Mr. Wines. I want to draw out his views upon that question.

But, before doing that, I want to say one word about the difficulty which he has pointed out in the administration of the parole system. I cannot but regard the indeterminate sentence as the greatest reform which has ever been wrought in the administration

of penal law; and he agrees with me, inasmuch as he gives it his complete concurrence and sympathy, so far as the principle and theory of it are concerned. He has unquestionably pointed out difficulties in the practice. What do those difficulties amount to? Simply this: that the materials for the administration of it do not yet exist in human nature. We do not know where or how to lay our hands upon the men who will administer it. Jesus Christ, when He came into this world, did not know where to lay His hands upon the men who should preach the gospel, and in getting His apostles He got a Judas. Was that any reason why He should not appoint apostles and send them out to preach His word? New occasions teach new duties. Demands create the men who are to fill them. If it were not for that, all hope of reform and of progress in the world would die. Let us set up the system in its integrity, in its purity, and then call upon God to help us find or to make the men who will administer it.

Mr. Wines has told us what the parole system may do. If this system is to come, what does it mean? That during certain stages of subjection to law as a discipline, men are better off, have a better chance of reformation and a better chance of becoming good citizens, if they are not subjected to prison influences, but are superintended by society at large, under such influences as a Christian society can bring to bear. That prison life is an unnatural life, and that it tends to degrade human nature by the very fact of confinement and by its associations. Now these facts are the secret of the power of the parole system. We can go a step further and say that, for the ordinary treatment of crime, the probation system in its widest extent is the future system of dealing with criminals. Precisely on that point I am anxious, on account of Mr. Wines' scholarship and long observation, to hear the impression which this thought makes upon his mind.

DR. WINES.—Mr. Chairman, if I understand (and I think I do) the point of your remarks, I sympathize very strongly with the view you have expressed, the necessity of hoping on, hoping ever, working on, working ever. A negro preacher, in expounding his belief, once said: "Brethren, if the Lord tells you to butt through a stone wall, butt! The butting is yours, the going through it is the Lord's!" We must butt at the wall of ignorance and prejudice and selfishness. Whether we butt through it is God's secret, which He will reveal at His own time; but our duty is plain.

Some years ago I visited Dr. Felix Adler's great school for the children of workingmen, in New York, and was greatly interested in the methods by which, through the development of the manual faculties, he was cultivating character. I said: "Dr. Adler, I should like to see this method introduced into all the public schools in the country." "Oh," he said, "you can not do that." "Why not?" "You have not the teachers, and you can not get them." "But," I replied, "we can make them." "Yes, in the course of time, but it

will take a generation. My teachers have been developed at immense expense, and they are ideal, exceptional men and women." Nevertheless, Dr. Adler's school for the children of workingmen, as an ideal institution, has exerted great influence upon the education in this country, and will modify it still further. So with Mr. Brockway, of Elmira. No matter what the imperfections of his system or of its administration may be, he has undoubtedly built up the most inspiring prison in the world, which no man can visit and come away from without feeling that he has gained an ideal and sentiments which he never cherished before. The strength of the opposition to him proves the power of his leadership.

But to come nearer to the point, your inquiry, as I understand it, looks forward to the ultimate abolition of the prison. There is a great deal in it. We have tried cutting people's heads off and it did no good. We have tried burning them and torturing them, and that did no good. We have tried shutting them up in prison, and that did not do any good. We are now trying to reform them. But that will not do as much good as we think it will; and by and by we shall probably come to the conclusion that many of these men had better have been left alone. God and human society would have done more for them than we can do, under the conditions in which the government has placed them. Mr. Brockway's friend, Dr. Thos. K. Beecher, humorously calls him "a little tin god on wheels"—a special providence in his prison. But no man is large enough to be a god or a providence, even in a little community like that of the Elmira Reformatory. He is bound to make mistakes, which God does not make. I would rather trust large numbers of my criminal friends outside of the prison than inside. I do not see that society itself would be any worse off. Many men are punished too much. We convict too many of them rather than too few. We do not accomplish what we think we do, and by and by there will be a great reaction.

Baron Garofalo's paper suggested to my mind the thought that I don't know what business the government has to form character; what right a set of men who call themselves the government, who happen to be for the time being in political power, have to come to me and say, "Here is the ideal character and you must conform to it. If you have a different ideal, I will take you and put you where you will be pressed into the shape which I want you to assume. In spite of all your resistance and your outcries, I will keep you there until I have either made you over or killed you." If we can eradicate the criminal character, so much the better. But we have no right to take a man, because we do not like his character, and mold that character over to suit ourselves. That was the practice in the Middle Ages, and the Inquisition grew out of it. We do not want to subject our prisoners to a moral inquisition.

Mr. CHARLES F. COFFIN, of Chicago.—I have listened with great interest to these remarks. After having studied the parole system

and reformatory system pretty thoroughly, it was my privilege to read an article by Mr. Wines, in which he described the Elmira Reformatory, at a meeting held in the Mansion House, in London. I mention it to show the difference in nationalities. It was listened to with attention, but the views expressed were criticised in a very severe and decided manner, and the fact is that, while the paper itself was greatly admired in England, the reformatory idea has scarcely entered the English mind. We find it hardly anywhere. Their theory is that of reformation by punishment, and that no prisoner should be discharged without having undergone severe punishment.

Dr. WINES.—That they should be intimidated before they are discharged.

Mr. COFFIN.—Yes; and their prisons are all severe. I thought, as Mr. Wines was speaking, how different it is to address a sympathetic audience, one that grasps and accepts this principle, from facing an audience which merely listens, but entertains a polite disbelief in the truth of the arguments advanced. I am thoroughly satisfied that, as we are at present situated, we are doing the best we can, and that the reformatory system is the only one that we can adopt with any great hope of success. I do not know whether we shall ever get so far as to do away with all prisons and all matters of this kind. I believe Dr. Wines has got that far.

Dr. WINES.—No; I say that we are moving in that direction.

The CHAIRMAN introduced Madame MARIE MARSHALL, of Paris.

Madame MARSHALL.—I shall now speak to you of the work which my friend, Madame Isabel Bogelot, of Paris, has been doing among the discharged prisoners from the prison of Saint Lazare, in Paris.

Madame MARSHALL then read the following paper :

WORK FOR DISCHARGED FEMALE PRISONERS AT ST. LAZARE.

MME. MARIE MARSHALL.

It was in 1870, when but one thought, one care seemed to be in the minds of all the people in France, that one woman, Mlle. de Grandprè, the niece of the prison chaplain, listening with her heart to the cries of woe heard from everywhere, took special notice of the miseries confined in that prison of St. Lazare—to us, women, far worse than was the fortress of La Bastille, inasmuch as it is not the victims of a reigning despot that are there imprisoned, but that behind the iron bars of St. Lazare are found the victims of the most criminal law that the spirit of evil could suggest to a human mind, the state regulation law for vice. In St. Lazare, up to that date, every woman

or girl convicted of the smallest offense, of whatever nature it might be, was placed there daily in contact with the worst of its inmates.

The girl of sixteen whose only crime was to be friendless, destitute, and thus reduced to beg for alms in the streets of the capital, was at once locked up between those walls where the contaminating influence of vice of the worst kind permeated all who found there a worse shelter than the street, for no care had yet been taken of their miserable condition. The poor woman, arrested and found guilty because she took from the baker shop one loaf of bread to save her little ones from starvation, when no more work could be found, and the father was either gone to eternal rest or was a degraded prey to intemperance—that woman, honest even through the fault committed with such a motive, became too often a complacent listener to those tales of easy work and good pay, told by her cynical companions, thus bringing back to her wretched home a depraved mind and becoming a most dangerous example to her children. Besides its vitiated, immoral atmosphere, St. Lazare was a sort of quarantine for all the diseases that are a fit but loathsome accompaniment to vice; and contagious diseases made their deadly way in the ranks of the poor creatures living in so frightful a promiscuousness. After Mlle. de Grandprè had begun her visits to the female prisoners in St. Lazare, and had taken a well deserved rest, the committee of men and women who took up the noble work begun have been so active that great improvements have been made in that deplorable prison system.

Since 1889, St. Lazare has been devoted only to the seclusion of prostitutes under penalty or under medical treatment. Women condemned for offenses of a common nature to not more than two months' penalty are sent to the prison of Nanterre near Paris; others, serving out sentences from two months to one year, are transferred from the police depot to the prison of Doulleus, until the *département de la Seine* has built a special prison for those unfortunates. The girls are being cared for in the main police depot by matrons, both lay and religious, and after judgment of the cases are placed in special quarters until given over on probation to the many institutions now existing for reformatory purposes. The boys are kept in one large quarter of the prison for men, La Roquette, and actually a large establishment is being erected in the country of Montesson for such young defaulters, where agriculture and various trades will be wisely used as reformatory means, and where, let us hope, the government will grant free access to the religious instructors of every creed or denomination as the case may require.

Abandoned little waifs are now placed in many benevolent institutions and in the state schools, and since two years a certain number of small homes, called *familles*, have been founded through private initiative, where, also under the care of a motherly matron, the children of prisoners are cared for up to thirteen years of age, when commences the apprentice training. Many abandoned children are sent to country homes, where they unfortunately cannot be adopted as your little waifs are here, but where at least they are brought up away from city influences; for it becomes more and more a difficult problem to solve with us, how to keep the country folks from overcrowding our large cities.

But although so much is being done to better the moral and material condition of women prisoners, of girls destitute and friendless, of precocious criminals, and of poor abandoned little waifs, the prison of St. Lazare as well as the police station depot are the constant care of Mme. Bogelot, helped in her work by Mme. de Morsier and a staff of men and women who have, through their energetic influence and example, been the means of inspiring another band of Protestant women to start also a visiting committee with a patronage for discharged female prisoners.

To understand what difficulties are encountered in that redeeming work among those liberated women, and how hard it is to even make them hope they can begin life anew, this cruel word of a peasant will prove how the weaker sex, as it is called, is considered in the old countries. A pastor is congratulating a good peasant in his country parish on the birth of his first child. "Oh," said the peasant, "there is little cause for me to rejoice; 'tis not a child that's come to us, it is a girl!" And again another illustration, from a higher step of the social ladder. Being asked whether he was pleased that his second born was a girl, a noble baron answered indifferently, "Oh! yes, it is amusing, a little girl; one can dress her up." That theory shows how our sex is too often considered in all classes of an old society. And it makes us better understand that in high or low circles, woman, thus despised, brutally treated, even sold—yes, she is often sold in our civilized countries—or so adulated, spoiled and otherwise ruined morally, loses all sense of her own responsibility. To protect and redeem these poor victims of a society so unjust, when they leave the depressing walls of the prison, Mme. Bogelot, who has so correctly explained her views on solidarity of human interests in the Women's Congresses, has made appeal to all good

wills, to all benevolent institutions, and has herself created what she calls *petits asiles temporaires*—small temporary shelters, where, not institution but family life makes the unfortunate women soon feel that they can breathe freely of that sweet air of love and liberty that will heal many moral wounds. Women are taken there for a few days according to need, and thence sent to country or town, placed out to do honest work through the kind interference of the good wills referred to already. How many before were thrown back into the same offense for which they had been condemned, only for the lack of decent clothing, which prevented their looking out for work! Mme. Bogelot and her co-workers have redeemed many, only through that simple means, better clothing. Others have been visited, their cases inquired into, and at their liberation were rejoiced beyond expression to find out that the dear folks at home, whom they never hoped to see again, were awaiting anxiously the return of the prodigal child—always thanks to the mission of love of our friends. Or again, we see the girl mother, whose child is sheltered with proper judgment, while she is placed out in an honest, charitable family, where she earns enough for the board of her own little one. Another, a consumptive, is sent out to the sanitarium for such, and an old vagrant woman receives shelter in a home for the aged, where she will end her days in peace.

But little money is needed to do so much good and do it so well. It is through understanding thoroughly the word solidarity, and putting it in practice, that these noble men and women have in hand all possible means of helping out their unfortunate sisters.

Solidarity is the golden key that opens to our friends all the doors they need opened before the unfortunate victims of an old conventionalism which tends to become fainter every day. The means placed in our friends' hands are numerous and cover the whole country. I refer you to the Woman's Building in the World's Fair, where have been placed large charts made under the supervision of the government, showing the statistics of this work of love. And at this door, the public is cordially invited to take the literature concerning what this society has done and is doing.

And to end, let me say that it means well for a country when her children, with little or no money, but with a spirit of love and true solidarity, have been able, since only a few years, to save so many of their most wretched fellow-creatures from falling again into the abyss where they had been thrown, more than once, in spite of themselves.

I should be happy to hear what of such work is done in this country, for the woman prisoner when released must not be allowed to fall back again; all chances must be given her for redemption. A neglectful indifference in that matter becomes a sin, which we women shall have to account for.

May we not hear these words spoken to us: "I was a stranger, and ye took me not in: naked, and ye clothed me not: sick, and in prison, and ye visited me not." But may it be our joy to hear: "Naked, ye clothed me: I was sick, and ye visited me: I was in prison, and ye came unto me. Come, ye blessed of my Father, inherit the kingdom prepared for you from the foundation of the world."—Matthew xxv.

The CHAIRMAN.—I see a lady who is probably as well able as any one in the United States to give us some information as to the opportunities accorded to American women who have broken the law. Will Mrs. ELLEN C. JOHNSON, of the Massachusetts Reformatory for Women, South Framingham, allow us to hear a word on this subject from her?

Mrs. JOHNSON.—While Mr. Wines was speaking, a few thoughts came to my mind which I wished I had the courage to utter. In the first place, I think that, whatever we try to do, we must believe in our work. We must work with full faith that we are doing the right thing, and that we can accomplish what we undertake. Sometimes a woman comes to my prison who is said to be very bad—incurable. Within the last year I have been told by the clerk of a Salem court, (Mr. Andrews, who has written several articles in the *Forum* in regard to the subject): "This woman, Mrs. Johnson, is perfectly incurable. I wish you would have her transferred at once. We sent her to you because there appeared nothing else to do with her, but I hope that to-morrow morning you will have her transferred to some other prison, because she is not a subject for reform." That I did not believe. I knew his feeling for me was kind, but it seemed to me that he had a very wrong idea. I treated this woman as all our prisoners are treated. I did not give her the idea for one moment that I did not believe that she was going to be a reformed woman, a true woman, and a good one. I did not have that idea myself about her for a moment. The consequence was that she passed through her prison the same as the others, losing not a single credit-mark, doing all that was expected of her from the very beginning, and she was sent to another state, to work in a family where she has remained now almost a year, doing perfect work. I received a letter, only a short time since, from the lady with whom she is working, thanking me for sending her so efficient and useful a woman.

I think that is the secret of successful work. There is a divine germ in every human heart, if we only have faith in it.

So many things can be said in regard to this work. I cannot give it to you in any systematic or scientific way. It is only in a common sense sort of a way that the work is done in our prison. We meet the women as we meet other people from the outside. I never get the histories of the women. When they cross the threshold the curtain drops on all that is past. We treat them as our friends. We expect nothing from them but good, and we very rarely meet with anything else. They are anxious to do all they can to become useful women. I have many applications for them, more than I can supply. Every woman who goes out from the prison can go directly to work, if she will; and very rarely one refuses to go.

Our great object is not to make the prison delightful, as many have said, because they find the prison rather pleasant to visit. The discipline, I think, is severe. It is a very hard thing for a woman who has never had any systematic training in her life, to come into that prison, to live up to the mark and never lose a credit mark from the beginning to the end. But the diverting of her life from her old ways and giving her an insight into things that she has never known or had an opportunity to think about, prevent her from thinking about the life that she has led and of her experiences in the past.

The CHAIRMAN.—Will you be kind enough to tell us what class of women are sent to your reformatory?

Mrs. JOHNSON.—I think they cover every class that are convicted and sentenced for a term longer than one year.

Miss LEAVINS.—Are all women sentenced for over one year in Massachusetts sent to your prison?

Mrs. JOHNSON.—No; I am sorry to say that some of our judges are inclined to accommodate the masters of our houses of correction, who visit the courts and say, "I wish you would send that woman to me, I need her in my institution very much to do my housework," and she is sent there.

Mrs. M. FULLERTON, Association for Improving the Condition of the Poor, New York City.—I am engaged in general relief work in New York city, and, of course, I often have women come to me who have been discharged from the different prisons. The imprisonment of a woman is sometimes the culmination of her disgrace. During her imprisonment kind ladies visit her, and in that way families are sometimes reunited. I can think of at least half a dozen who have been restored to their families in this way.

Mrs. D'ARCAMBAL, of Detroit, Michigan.—We have no prison for women in Michigan; but we have an industrial home, where our girls are sent, beside a workhouse in Detroit, with good matrons and friends who take girls and find places for them as soon as possible. Many girls are sent there, however, who have no right to be there. They are about to become mothers, and must find another situation or be sent to another institution. We make an effort to induce and enable them to keep their children and to care for them. We have places where we can take care of little children for a very small sum. The mothers get good places, where they are well

remunerated, and pay for the child's board. As soon as a child is old enough to be put in a home, if the mother chooses she can make that disposition of her child.

Rev. GRAHAM TAYLOR, of Chicago Theological Seminary.—I would like to add something in regard to the work of a church of which I was pastor, situated in the city near the Connecticut State Prison. We found it necessary in dealing with the under classes to take a representative of the church to the police court; and for years a representative of that and another church have taken turns in attending the police court every morning, conferring with the prisoners before they come to trial, remaining during the session, and often having first offenders committed to us by having their sentences suspended on condition that they will do as we say, or allow us to be their friends. Then, when any of the boys get into trouble—we have mostly to do with the men—and are sentenced to state prison, we are pretty sure to see them just before they are transferred from the county jail to the state prison. We make frequent visitations at the prison, especially to see the men who are to be discharged the next month.

As chairman of the committee on visitation and discharge of prisoners of that association, I had a great opportunity to do visitorial work among the men who came out the month after. A large number of them came straight to this church. It mattered not what had occurred, they were received; and these things were given them: First, a friend; second, return home, if he had a home to which we could restore him; a new environment, a place to be. We built a room out from that church, a men's club room, and into it these men were introduced and lost just as quickly as possible in the crowd of other men there. Nothing ever was said as to their past lives, except that which escaped from their own lips, and this new environment remolded or remade the man.

Of course we had disappointments, but the dark shadows were cast, in these exceptional cases, by very bright light. I wish to say that I know of no such blasphemy against Almighty God as to say that these men can not be saved. This blasphemy against human nature strikes at the divine fatherhood. I am glad to acknowledge that some of the dearest friendships that I have in the world to-day are with the men in whom I have acquired a kind of a property interest, and whose lives are additions to the world in which I have been glad to live. In regard to these men holding out: in the course of twelve years 54 men were taken into the community of that church, many of whom came from the very lowest depths of inebriety and crime, and of those 54 men I can put my hand on 50, and many of them are in positions of great trust.

I remember one young man against whom I was warned by the police force of the city as a man thoroughly bad, unworthy of any care or interest. The pathetic history of that man was this: His first crime, so-called, was to lose his mother. Then he was arrested for having property in his possession that he did not steal.

His father put him out of the house for coming back after the jail commitment. Said he, "If father was agin me, I was agin everybody." For ten years he was in the state prison, with scarcely six weeks' interim between jail or prison sentences. From the very first hour that a brotherly hand and a higher mind were laid firmly on that man he never once disappointed us, and to-day he is in charge of the running gear of the cash department of the largest store in the city, and has risen steadily in the estimation of all the people with whom he has been associated in business. That man has a home of his own. I can multiply these cases indefinitely.

I sat in a club in Chicago not long ago and heard a physician carry the hereditary idea of crime to this extent, that there are no so-called criminals who are not moral lunatics. He believed that their will plays absolutely no part whatever in their destiny. It was my privilege to cite a series of cases where I had sat in a prison office and seen a third or fourth term man come out to be examined by this committee, caught by a new purpose, possessed of that purpose and simply remade by it. I know that there is such a thing as hereditary influence; but I believe that there is power in a new environment of personality largely to modify that hereditary influence and make men over again. I am frank to say as a Christian that, properly applied, by a new social environment and by personal influence, the old gospel is the very power of Almighty God to save these men in this world and the world to come. And that gospel teaches me that, if I want that new world myself, I must give it to every man who can be persuaded to take it.

MR. HASTINGS H. HART, secretary of State Board of Corrections and Charities, St. Paul, Minnesota.—There was one remark of Mr. Wines which it seems to me ought not to pass without question. He expressed a doubt whether the state has a right to mold character. I cannot let that pass unchallenged. It must be admitted that the state has no right to assume a prerogative which the Creator does not assume, the control of the human will. But certainly the state has the right, for instance in the case of insane persons, to restrain an insane person of his liberty until such time as, in the best judgment of physicians, he is competent to be given his liberty. It seems to me that that is what we do in the public prison. We say to the prisoner, "We are fallible judges, but we propose to confine you in prison until such time as, according to our best judgment, you have attained a character safe for the community to allow you to go at large." For the state to undertake arbitrarily to force character into a certain mold, I will admit, is indefensible. But I believe that the state has a right to say, "Admitting the possibility of doing you injustice, and the probability of inflicting some hardships, nevertheless the public good justifies us in declining to set you at liberty until such time as you conform to such a reasonably high standard of character as we believe to be necessary for the protection of the community." If this be treason, make the most of it.

The section adjourned.

FOURTH SECTION MEETING.

FRIDAY, JUNE 16, 10.30 A. M.

The CHAIRMAN.—Our first business this morning, and it will be a very great pleasure to us all, will be to listen to Major ROBERT W. McCLAUGHRY, chief of police of the city of Chicago, on the identification of criminals. I have the pleasure of introducing to you the Major.

THE BERTILLON SYSTEM FOR IDENTIFICATION OF CRIMINALS.

ROBERT W. McCLAUGHRY.

I came here this morning to talk to you a few moments and describe, as best I can under the circumstances, the system for the identification of criminals known as the Bertillon system. It takes the name of its inventor, Alphonse Bertillon, of Paris, and it is by far the most complete system yet devised. It is based upon the fact that certain of the bony structures of the human frame do not change after the man is twenty or twenty-one years of age. The measurements of no two persons are the same in all respects. There is as much variety in respect to the human figure as in respect to the human countenance. Now, if we can hit upon some plan by which measurements of any individual can be taken with a reasonable degree of accuracy after twenty years of age, these measurements will be the same wherever he may be found, and thus we shall be able to establish his identity.

Suppose that John Smith is arrested in New York for a burglary, serves his time in Sing Sing and is discharged. He does not want to go back to the city of New York, if he proposes to lead a criminal life thereafter, so he strikes out for the West. He comes perhaps to Buffalo, or Detroit, or Chicago, where he again commits crime and is again arrested. At the place where arrested he poses as a first offender, and as criminals on the average are young men, he can easily do that. I have had third, fourth, and fifth-term criminals come back to me even from the different cities in the state of Illinois, and come up smiling and tell me how they deceived the judge and

even the police into the belief that they were first offenders, by some story of their early days—Sunday-school experiences and that sort of thing. They know how to deceive the very elect in these matters. If John Smith's measure has been taken in New York city and reported to a central bureau of information (say Chicago, as that is the centre of the universe just now), and the measure is there recorded, when John Smith comes to Detroit and is arrested there, and his measurements again taken and telegraphed to the central office, it will not take two minutes to return the information that John Smith, although his name may have been given as Peter Jones in Detroit, is the same person who was arrested in New York for burglary and served a term at Sing Sing; thus giving to the Detroit court information upon which it can safely proceed to class John Smith as an habitual criminal and punish him accordingly. He may go from thence to San Francisco and be there arrested and measured again, and if the information is telegraphed to the central office at Chicago, all we have to do is to look through the records and we find that William Brown of San Francisco is the same original John Smith, and we can telegraph back the fact that he served terms at Sing Sing and at Jackson, Michigan, for crime.

The advantage of this must be obvious to you all. It will enable the courts of justice to deal with these men as they deserve, instead of committing them, time after time, in every state in the Union, as first offenders and giving them the lightest sentence known to the law; for the most dangerous men that the authorities and the courts have to deal with are those men who are the best calculators and most able to deceive people as to their identity and real character.

Now I want to explain to you briefly how we get at this. We first take the head measurement, or the length of the head from the root of the nose, as it is called, to the farthest point on the cranium; then the width of the head; then the length of the forearm, of the middle finger, of the little finger, of the left foot, of the right ear, and the width of the right ear. You will be surprised to see how much difference exists in these organs in different people. Then we measure the height, standing in the position of a soldier, and sitting on a chair, and those measures, of course, we follow up by describing the color of the eye, the contour and shape of the nose, and the marks and scars upon the body, noting the anatomical divisions of the human frame, locating each mark and scar accurately and measuring it exactly, and giving full particulars, so that we may clinch the identi-

fication of the man. The measurements I have stated are sufficient to identify the person wherever he may be arrested. As I have said, this system enables the authorities to indict and punish under the habitual criminal act, and thereby exclude dangerous criminals from society.

In order not to take up your time I will have a man measured. Of course, when we measure a man in the identification room he is required to divest himself of his clothing. These are the caliper-compasses [showing instruments] with which the measurements of the head are made—the length and width of the head. This is the scale by which the measurements of the ear, of the forearm, little finger and foot are made; and with the scales on these boards, when properly fitted to the wall, we take the height, the trunk measurement and the measurement of the outstretched arms.

To show you how little photographs alone can be depended on I present you with quite a number.* The measurements of this man, taken in a dozen different places, from Chicago to Paris, and by different persons, do not vary in any respect beyond one or two millimeters, which is such a slight variation as not to interfere with the identification. No matter how that young man might get himself up, either in Paris or in San Francisco, he would be recognized through the central bureau of information as the party measured and described. The measurements are entered on this card. On the back of the card is a space for writing the history of the man, where he has been convicted, where he has served, and all about him; and on these lower lines we give a full description of the marks and scars found on his person. Photographs alone can not be depended on, although they are valuable as an adjunct to identification, and are always taken where it is possible to do so.

Now we will measure a subject. I will ask one of my assistants, detective Smith, to be measured. If I had known that I would be asked to talk on this subject I should have had illustrations prepared. In the French government building at the World's Fair, in the eastern section of it, you will find large photographs illustrating the various phases of this system, and generally you will find a gentleman there who will cheerfully give full explanations of them.†

* The speaker showed the audience about a dozen photographs of the same man taken at different places, no two photographs resembling each other.

† Major McClaughry then proceeded to measure one of his assistants, using the Bertillon instruments.

The caliper is placed in the cavity at the root of the nose. In anthropological measurements for determining the diameter of the head, the point of departure is just between the eyebrows. That makes a few millimeters difference from our measurement. The subject is required to lean forward on the left foot, so as to prevent any trickery in giving the length of the foot. In measuring the forearm, place the left arm on the table and lean forward.

The most wonderful thing about this system is the classification. You ask me what we do with these cards. Here is John Smith's card, giving his photograph and description. We take a hundred thousand of these and file them in the central bureau. How will you find that one? By an analysis and arrangement which I will attempt to describe to you. The measurement of the head, from the smallest up to eighteen centimeters and nine millimeters, is called "small length"; from nineteen up to nineteen-four is "medium length," and then from nineteen-five up to the largest is "large length" of head. Now, we first sort the cards according to that description into three groups: small, medium, and large lengths of head. Here are nine boxes containing probably three hundred of these cards—descriptions of three hundred different people. Three of them contain "small length" cards, three "medium length," and three "large length." Each of these divisions is subdivided again according to the width of the head; from the smallest up to fourteen-nine is called "small width," from fourteen-nine up to fifteen centimeters and three millimeters is called "medium width," and from fifteen-four to the largest is called "large width" of head. When we write John Smith's description we put the card first in one of these divisions, then in one of the cross divisions, taking out that box, which is again further divided by these yellow cards according to the length of the finger, foot and forearm, and the height. We place John Smith's card in one of these compartments, because no one else will measure exactly as he does, and we find his card in that compartment. By this system of classification we are enabled in a very few moments to determine where the party described by the measurements is; and let me say that, unless this John Smith again commits a crime, he can never be found. This is in no sense a rogues' gallery where the pictures are on exhibition. There is no index. Nobody can find Mr. Smith, unless he discovers himself again by a second measurement and is reported to the bureau. I wish to impress that point upon you. If,

having been convicted, measured and described according to the Bertillon system, this man forsakes crime and leads an honest life, no man can go to the bureau and find him. The system protects the man who proposes to do well, at the same time it protects society.

Now, for convenience of illustration, I have had printed a partial list of the descriptions that are in this cabinet. We can handle a hundred thousand or two hundred thousand just as easily as these. On this list you will find the descriptions in figures, and the names at the left. If you will call out any description as I give you opportunity, you will see whether I can find the card which answers to that description.*

We take the photographs in two positions, front and profile. As a rule the prisoner is shaven closely.

Let me say concerning the measurements, that any person who is qualified to become a reasonably good carpenter and can take measurements with the accuracy required to make a fair carpenter and cabinetmaker, can learn so to take the measurements that there need be no discrepancies that will invalidate the identification.

It is a rare occurrence where men are identical in as many as eight measurements. They are often identical in two, three or four. We find two men, for instance, who will measure alike as to outstretched arms; but in height, length of fingers and length of ear, or other measurements, they will be found to vary considerably. We measure many persons whose outstretched arms give a greater length than their height of body, and others two or three centimeters short of that. We have never found two measurements exactly alike in every particular. Three hundred thousand have been taken in France and no two of them are identical. When we take such a large cabinet we multiply the subdivisions. There can be no possibility of failure; in fact, in all our experience there has never been such an approach to identity of the measurements of two men as to render the identification of either of them doubtful or ambiguous.

M. Bertillon informs me that in gathering the vast cabinet he has in Paris he had some difficulty in that respect, at the start, several years ago. It grew out of inaccuracy in the measurements. When the government finally adopted the Bertillon system of identification

* Cards were then distributed to the audience, containing the descriptions of several noted characters in figures. The figures on the cards being called by the audience, the speaker in every instance put his hand upon the photograph of the criminal in the cabinet, and announced his name as given on the cards.

and placed him at its head, he sent thoroughly drilled persons to the different cities of the republic and throughout the counties and parishes, who explained the system to the authorities, and trained them in the manner of taking these measurements, and impressed upon them the necessity of taking them accurately.

In this country and in Paris the system is used for the identification of persons in a business way. For instance, a man who goes from Chicago to Paris and takes a letter of credit on a bank there, has us take his Bertillon measurements. It is placed on the letter of credit and the house is advised of it. He can identify himself, so that his draft will be paid without further identification, by stepping into M. Bertillon's office. We take measurements in many cases. Many persons carry with them their measurements.

In answer to inquiries, the speaker said: "The only change that M. Bertillon has found is in the height. The settling of the vertebræ would cause a slight change in height. There is an allowance made for that, and that does not invalidate the measurements. Disease may effect shrinkage of tissues, but not of bones. We make allowance sometimes in extreme cases in taking the measurements of fleshy people, but we take the measurements so accurately that we are sure we have the measurements of the bony structure. If a person should again be measured while very fleshy, of course the operator would then make due allowance; so that the identification would be complete. I might say in passing that very few criminals are fleshy. They are Pharaoh's lean kine, all of them."

Dr. JAMES W. WALK, general secretary of Society for Organizing Charity, Philadelphia.—I would like to answer the question whether disease can affect the bony structure, as a physician. There are certain diseases of the osseous structure that might modify the length of the forearm; but those diseases are of a kind which are so serious that it is not likely that any one after his health is so broken would be able again to follow a criminal career. He would need hospital care.

Major McCLAUGHRY.—I was going to say that M. Bertillon provides for that. The disease would make such a marked difference in the man as would lead the subsequent operator to note the fact. If the measurements were so nearly alike in many particulars as to cause a doubt in the mind of the operator as to which the man was, the particularity with which we locate and describe the marks and scars would clear up the doubt.

A MEMBER.—Another question is about the absolute maturity of the bone. Is that to be taken into consideration?

Major McCLAUGHRY.—That is a fact after twenty-one years of

age. I understand that there are exceptions, but they are like a white blackbird, they are few, and merely prove the rule.

A MEMBER.—How many colors of the eye are there?

Major McCLAUGHRY.—I cannot tell you. There are many. I thought I had M. Bertillon's book with me, containing a chart giving a classification of colors, but I neglected to bring it.

A MEMBER.—I have in print, taken by George M. Porteous, in 1889, the ten distinct measurements of Major R. W. McClaughry, and since it would be something of a test, I will ask him to submit to remeasurement. Mr. Porteous who took the measurements at that time is here and can take them again.*

Major McCLAUGHRY.—The cost of the appliances is about \$25. Michigan, Pennsylvania, Illinois, Massachusetts, the Dakotas, I think, Kansas, and Minnesota have provided for taking measurements. The prisons and the police are working together. We have a large collection of measurements in Chicago, which seems to be by common consent the central office; but this system will reach its full development and prove of greatest benefit to the people of the whole country when the general government shall establish a central bureau of information at Washington, to which all parts of the country shall make reports. Measures are being taken to that end. It should be managed like the Postoffice Department or the Weather Bureau.

Capt. EDWARD S. WRIGHT, warden of Western State Penitentiary, Allegheny, Pennsylvania.—I will give you two or three points illustrating further what the Major has said. Last fall, accompanied by my daughter, I went to M. Bertillon's office in Paris. They take on an average about one hundred and fifty descriptions each day. The morning we were there, there were six operators at work. They were all in uniform, such as you may see at the exhibit at the French Government Building, World's Fair. I want to call your attention to one use which Major McClaughry has not touched upon. The apparatus there is different from any in the United States. It is arranged so that they take the description of bodies that are found, and take them just as they are found. They take all the surroundings. The possibilities for the police are very suggestive. The morning we were there, there were a great many present, and in the afternoon we went back; they brought a young man in and M. Bertillon said, "This seems to be a man whose description we have." My daughter took the card, and in an instant four or five clerks climbed up and brought three other cards and laid them down. She spoke in French and asked him if he had been in prison before. "No, never," said the young man. "Simply in Paris?" "Yes." She then said, "In Brussels—Jones." She looked again, and in Marseilles he had been in prison under some other name, but not in Paris. She then read the three descriptions and handed them to

* He came up and measured Major McClaughry, and the new measurements corresponded exactly with those he had taken in 1889.

M. Bertillon, and he was identified then and there as a person who had been convicted three times.

This gentleman, who gave us so much time, told me many very interesting things connected with the work, and he appreciates very highly the manner in which the system has been taken up in the United States.

He has in his office four or five pictures, and the most prominent of them is that of Major McClaughry. He said that to him the most convincing proof of the success of his work is the fact that the English pickpockets, the most dangerous of all thieves, have become an almost unknown quantity in Paris. They used to arrest dozens in a month; now they rarely arrest one. He asked the last man, "Why don't you come to Paris?" He said, "Do you think we are fools? Do you think we are going to have our pictures taken?" "No," he continued, "we know a good thing, and we go to the United States instead."

I tried to get M. Bertillon to come here, but for the want of funds he could not come. He could have procured a four months' vacation if he had had funds. We endeavored to get them through our association, but we appear to have come to an untimely death last year and have no money.

The matter in the United States is in a state of quietus now, and the only way, it seems to me, to make it active is to get the national government to take hold of it and make it a bureau in the Department of Justice. I have seen several members of Congress and I am promised aid in that direction. I think they will introduce a bill at the next session to establish a bureau in the Department of Justice, and then all the papers and reports will be made a part of the monthly system which the United States now adopts. I know of no one to whom we are more indebted than to Major McClaughry, and I hope that he will continue this active work.

In London I visited Scotland Yard. There they do not adopt this system, but instead of that they have a cumbrous year-book, giving the marks and all that; but through jealousy, although they admit the Bertillon system is the best, they do not apply it. I do not know that you can spend a more interesting morning than to go to the French Exhibit at the World's Fair, and I think you will acknowledge that in this matter the French have taught us two points.

The CHAIRMAN.—We are very much obliged to these gentlemen. There are still three points in connection with this subject on which it would be absorbingly interesting, I am sure, to us all present to be enlightened; but the subject is so vast and comprehensive that it is absolutely impossible to exhaust it in one short session. The first point to which I refer is the fact that the basis of this entire system is strictly and absolutely scientific. It partakes of the nature of an exact science. Major McClaughry has described eleven measurements. Now, if you will examine these measurements you will see

that the range of each, at a minimum, gives us at least thirty distinct points on the scale which can be readily distinguished in measurement with sufficient variety to avoid mistakes by an expert, and all of these within the range of measurement of what may be called an average man. Taking the eleven measurements and using them, you see at once that the number of different men who can be classified under this system, without the danger of confusing any two of them, would be precisely the eleventh power of thirty. Now if you calculate the eleventh power of thirty as I have done, if I am not mistaken, you will find that it is 17,714,700,000,000,000, or about eight hundred times the estimated population of the globe. That is the first point to which I call your attention.

The second point is that this system is not limited in its application to criminals, but that it is beginning to develop important bearings on the study of anthropology. What future light such measurements, classified, may throw upon the races of men, upon the development of men from age to age, upon the laws of change in the bony structures under different conditions of life, is a question of great importance.

The third question is one on which we should be pleased to hear from Major McClaughry. It relates to the practical work of taking these measurements; whether there are any of them in which the tricks are more confusing than in others, and whether on this account it is necessary that experts take them in a particular way rather than that they be taken by amateurs and carelessly.

Major McCLAUGHRY.—I think only in two points, the length of arms and the height; and they used to practise a little on the foot measurement, but by requiring them to stand on the foot, leaning forward, we prevent that. There are no measures in which they can trick the operator. It is only requisite that the operator be reasonably careful, and any man who can take the measurements requisite for a fair carpenter or joiner, with the exercise of reasonable care, will not make a failure in his measurements.

A MEMBER.—I would like to ask what class of criminals you take.

Major McCLAUGHRY.—We take the measurements of those who have been held over to court or convicted of any crime that may be punishable by imprisonment in the county jail or penitentiary.

The CHAIRMAN.—If there are no further questions to be asked, I am sure the section will join with me in returning to Major McClaughry our most cordial thanks, and also to Mr. Wright for his interesting address.

Mr. WM. M. F. ROUND, director of the Burnham Industrial Farm, Canaan Four Corners, New York, will now speak on crime and education.

CRIMINAL OR DELINQUENT CHILDREN.

WITH A SKETCH OF BURNHAM INDUSTRIAL FARM.

W. M. F. ROUND.

It is only within the last quarter of a century that there has come to be fully and generally recognized a direct and most important relationship between the education of the child and the prevention of criminality.

Hitherto, criminals have been regarded quite as a class apart; somehow they became criminals; but how, few have stopped to inquire, either for the cause of their appearance in the body politic, or as to the potency of means for their repression or removal. They have been left to the treatment of old systems, regardless of the futility of these systems, in the fact that the criminal class increased out of all proportion to the increase in population.

There has been an expensive and cumbersome penal machinery, for which the taxpayer has paid somewhat grumblingly, while he has made but little effort to ascertain the primary causes of crime increase, or given but scant consideration to the warnings of specialists.

But the menace is becoming too alarming in these days, and its dangers so pervasive of all classes of society, that the public conscience is at last awakening to its duty, and the public mind seeking for protective measures, with an energy heretofore unknown.

It is a significant fact in this whole matter, perhaps the most significant fact, that the growth of criminality has gone alongside with the growth of our much-vaunted educational system. It has been a frequent object of inquiry with intelligent citizens whether there could possibly be any relationship between the two; and there are many to-day who stand in amazed incredulity if the relationship is asserted, and wonder how it can be, that if all children are properly taught to read, write and cipher, with a few extensions of these accomplishments, they ever can fall into crime. Respectable parents shudder at the mention of any relationship between the jail and the schoolhouse, between the seminary and the penitentiary. Yet criminologists are every year feeling more and more that the accident of heredity is less to be regarded as a cause of crime than defects in educational methods. It is a most natural thing that such defects are most apparent in institutions where delinquent and way-

ward children are gathered for training, and yet in many such institutions, old educational methods are still adhered to, and any innovations upon them are regarded with distrust. Advocates of new methods are regarded as innovators, if not as "cranks," and the natural conservatism of humanity is never more apparent than in its treatment of educational experiments, however honestly they may be made, or however plainly they may be based on established facts and generally accepted principles. Those who have been in the vanguard of penological progress during the last ten years have had to fight for standing year by year, and step by step, not a point having been gained without a battle; but they have had the courage of their convictions, and thank God! the troops have had to come up to the colors and the colors have never gone back to the troops. This is likely to be the case in the application of a new set of methods to the educational elimination of crime tendencies in the young, though heretofore most promising experiments have often been regarded with distrust.

This brief introduction may serve as an apology for my bringing into this influential assemblage some account of an experiment in new educational methods designed to supplement the old methods,—with a special view to the correction of criminal tendency in young boys; and to speak of work which has been too much spoken of already, and too much praised for one in so early a stage of its progress. I refer to the work at the Burnham Industrial Farm, at Canaan Four Corners, New York. For whom is it designed? What is it for? What are its principles? What are its methods? What are its present and what its promised results? These questions I shall try to answer, in the hope that the wisdom of such a body or the interest of those who read this report may find suggestions to offer toward perfecting a plan, the imperfections of which are only too apparent to those who are zealously engaged in its promotion, and who welcome honest and kindly criticism from whatever quarter it may come.

In the announcement of this paper the subject was in some way connected with the expression "criminal children." Against this expression I wish at once to enter a most earnest protest. There are no criminal children. Criminality in the special sense must have certain factors. Among these are:

1. Motive.
2. A sense of moral responsibility.

3. A knowledge of relationship to law.
4. A conscious defiance of law and of generally accepted beneficent social conditions.
5. A recognition by the law.

Crime is crime because the good order and general welfare of the community being promoted and protected by certain restraints, adopted by the consent of the community, these restraints are consciously violated in the selfish interest of the individual. This thought must be kept clearly in mind lest we confuse crime with sin,—if I may be pardoned for introducing so old-fashioned a word into so modern an assemblage.

I hold that there are no criminal children, because, since all the factors that I have named must be present to constitute a criminal diathesis, and since they are never or almost never all present in the criminal actions of children, or their relation to the social structure, I do not believe that we should put the brand of criminality upon a child, even in our common speech. Moreover, in its relation to law the child cannot be a criminal, because the law on its part does not recognize the social, legal or moral responsibility of the child. It is one of the infamies of law that it permits through all the calendar of shame, as embodied in our penal code, the child, the minor, to be regarded as a criminal; treating him on a basis of moral responsibility, while denying him its rights. It classes him with adult criminals, convicts him, sends him to prison, but does not permit him to hold property, to make a contract, or to vote, or to marry without the consent of a legal guardian. Surely there is no equity in this: no reason in common law why we should call a child a criminal. Therefore I prefer, and I insist upon the preference, that wayward children should be so called; "delinquent children" may not be an objectionable term, but let us have no criminal stigma upon the holy name of childhood.

To step from the abstract to the concrete. I have found in the history and methods of the Burnham Industrial Farm—the system of which I have had some share in shaping—both an illustration of my position as taken above, and a proof that educational institutions, pure and simple, are needed for the care of delinquent children, who in nine cases out of ten owe their delinquency to circumstances of environment, impressions of their surroundings, and who simply need to be educated out of badness into conditions that make for righteousness.

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Every boy who is brought to the farm is examined along the whole line of the definition cited above. Let me cite a brief case.

J. B. is sent to the Farm. It is said that he is a liar and a thief. He is thirteen years of age and small for his years. A pale complexion. Hesitates in speech. Comes wearing a bright necktie, a cheap finger-ring; his fingers are browned at the ends with tobacco. Almost every question put to him must be twice put before he comprehends it. There is no ascertainable hereditary taint. His environment has been entirely respectable. His mother is a wage-earner. The boy has always been to public school. Let us test his case by the factors laid down above and see wherein we may gather light for his treatment.

Motive. His motive for stealing was a gratification to his vanity and appetites. He bought finery and candies with the money he stole. He had a clouded sense of moral responsibility, but was little governed by it. He had a sense of relationship to law, and threats of having him arrested had only kept him in check. This boy was clearly a budding thief, but I deny that he was a criminal, because he had not been in a condition of life to know the value of higher motives. He had seized upon the only motive that his environment furnished him. He had not moral discernment sufficient to grasp other motives. He was a child in criminality; and a child in criminality is not a criminal any more than a child in law is a citizen. There should be no giving the boy over to the ranks of criminality until his full manhood had been attained, his education fully perfected (for the state undertakes to educate every child), the restraints of minority all tried, and it had become certain that with a fully matured mind he had deliberately chosen crime as his mode of life.

We tried to find out from the boy I have in mind if he had any consciousness of his relation to law, any idea of his relation to society. There was but a feeble perception. He had a fear of punishment, but no sense of the beneficence of law. The brother who brought him to us said that the only way that he could keep him in check was to threaten to arrest him. The boy knew that all his brother's earnings were required to support his family, and yet he persistently stole from him. What could we do with such a boy? What did we do? His case will illustrate the general plan of procedure for the entire Farm.

.

Every boy when he leaves the Farm must meet the ordinary conditions of life, therefore we make the conditions of life at the Farm as nearly as possible like the social conditions outside, but intensify and impress them upon him until they mould his character. One of the first things that a boy will have to do when he goes out into the world—that is, such boys as we have—is to earn his living. If he enjoys any of the luxuries of life he must earn them, or somebody must earn them for him. We say to him, “Everybody gets the pleasures of life according to the work that he does, therefore we will pay you from the moment you get here, and you need expect very little except what you earn.”

Then we give our boys ten mills a day, and thereby we have at last found a use for the decimal fraction of a cent. What he gets is actual currency to him, and he receives small tickets representing ten, twenty-five, fifty or one hundred mills. He is provided with nothing but the simplest fare. All the luxuries of life, or such as the Farm affords, he must buy with his earnings. He may have bread, but he cannot have butter unless he buys it. He may have berries, but he cannot have sugar to eat on them unless he buys it, and he cannot buy these things unless he earns his mills. He can buy straps for his skates, and base-balls, and he can buy lost articles at auction, which are sold to the highest bidder. All articles found lying about are confiscated; for we hold that it is right to try to teach our boys a proper sense of the conservation of property. Every Saturday night all these confiscated articles are sold at auction to the highest bidder. A boy can give money for charity; he can put money in the missionary collection on Sunday—that is, his mills, which are redeemed at the office. He must earn a certain number of mills, or at least he must not lose a certain number of mills, in order that he may win his promotion from the inmate grade to that of the cadet grade. Then we have a fourth class, the pauper class. If a boy does not work he belongs to the pauper class. He is given the coarsest kind of food, and every other boy in the institution is taxed ten mills a week for his maintenance. The result is that of every one hundred boys, we have ninety-nine special policemen who see that the hundredth is not idle. A strong moral force is brought to bear upon him to make him take his part in the work of life. There has never been but one pauper, and he was only a pauper for forty-eight hours. It is a singular fact that most of the boys come to us from the public schools with an entire sense of helplessness. Their

minds are trained to multiply single numbers, to read and to write, but they have no training of the hand, and no conception of the relationship between labor and life.

One of the characteristics of our boys is a want of moral courage, even where they display wonderful physical courage. Fear should not be a dominant motive in an institution for governing boys; in the early stages of a boy's development the appeal to fear is necessary until he can comprehend higher motives; but after having attained a certain moral condition the appeal to fear should be discarded. How much does a boy fear physical punishment who will hold out his hand and allow another boy to pour a teaspoonful of the strongest nitric acid over it? A boy who did that was repeatedly whipped at first to make him behave himself. We have changed the treatment in his case, and, although he is not a thoroughly good boy, he is improving fast. Last winter he ran away. He went to New York. I knew he was in one of three places. At the approach of Christmas I wrote to him at all three places:

"*Dear Charlie*:—Christmas will be here three days hence, and when I go into the chapel there will be no pleasure for me if you are not there. If you want to make me a Christmas present, please come back."

On receipt of the letter that boy went to my wife in New York and borrowed of her the money with which to pay his fare back to the Farm. On Christmas Day, as I was sitting in my room, with the thermometer outside ten degrees below zero, I heard a knock at the door, opened it, and there stood this great, tall, splendid boy, who had walked from Pittsfield, ten miles, to get back to the Farm.

We could not have whipped him back. If he had been driven from the Farm by physical torture I am sure that he would not have come back. He was very deficient in moral courage, and he feared to face his comrades.

How shall we develop the sense of moral responsibility? It is forced upon us by the shame which follows sin and crime, by the rewards which follow living honestly with our neighbors, by the thrill of pleasure that comes from living in a state of interdependence and mutual helpfulness. I think it can be taught in any institution. I know that our boys often come to us, as in the case of the boy already spoken of, with a very feeble sense of moral responsibility. We try to make them feel that they are a part of the body politic. They have the right to vote punishments—not all punishments; but,

when the system is complete, all the employés and officers trained as they should be, and as I hope they will be, I do not intend that any boy shall receive severe punishment except by a vote of his comrades and teachers. That day has not yet come, but I am bound to say that no punishment has been inflicted by the vote of the boys without full, frank, free discussion; and it has been my duty very many times to reduce the punishment ordered by the boys themselves.

I have said that we teach them that they must earn their living by honest labor. We do not teach any trade, but we teach the rudiments of a trade. We have a small printing shop, carpenter shop, knitting shop, and broom shop. Some boys look upon society as a great, gigantic machine, of which they are not exactly a part. Such a boy imagines that he has simply to open his mouth three times a day for society to put a spoon full of food into it; that society is bound to provide him with every suit of clothes that he wears, whether he earns it or not, and if society fails to feed and clothe him properly, society is to blame. That boy is institutionalized. There is no hope for him until he is made to feel that he must take part in life as a wage-earner, and support himself by money honestly earned. We try to instill into the boys, as far as we are able, the habit of labor. That is where our public school system fails. The habit of labor grows. Have you ever thought what a strong thing habit is? If once you get a boy to earn his living regularly, and feel that he must earn it or he won't have it, that if he wants the pleasures of life he must work or he won't have them, the sense of obligation to labor becomes to him an uplifting force. On the other hand, take the criminalized boy. A criminal boy only seventeen years of age once came to our office, a pickpocket known throughout the country. He was converted and began to live an honest life. Afterward he said to me, "You have no idea how, when I go into a street car and see a woman foolishly exposing her pocketbook, there comes over me an intense feeling that I must take it from her, and then follows a hot flush all over my body at the thought of the temptation I have escaped." Good and bad habits are equally strong. The boy is safe who awakes from sleep and says, "Give me my bath; I must eat and be at work"; who works all day, feeling a thrill of pleasure in the sight of the growing product of his labor, and at night goes tired to bed. That boy is comparatively free from temptation, and if he does that every working day in the year, the habit of toil thus engendered will save him from almost any temptation.

The Burnham Industrial Farm is only an experiment. It has had a great burden to bear. Its officers are all unpaid young men who are in training for the highest and best of vocations, the reform of humanity. The first thing that we had to contend with in establishing the institution was to find somebody to run it; but we have established there a training school where young men learn to do by doing, and in the name of Christ fit themselves for institutional work. Never have I seen such zeal as on their part. They are on duty from five o'clock in the morning until nine o'clock at night, with no vacation, patiently bearing privations and hardships, animated and sustained by the desire to teach and uplift these boys. The cause in which they have enlisted, that of child-saving, is an honorable and noble profession for any man to enter. I have known our Brothers to go without proper clothing in order that other boys might be admitted; and I look forward to the day when this little normal training school at the Burnham Industrial Farm will reach a point of usefulness when, if any one wishes to find a competent, honest, trained, consecrated employé for any institution, we shall be able to supply him.

So, you see, the Burnham Farm has a two-fold purpose, that of saving boys, and that of training men for other institutions.

Three of our Brothers of St. Christopher have finished a course of training of three years and six months and are now ready to go out; but if we had fifty instead of three we could not begin to supply the demand.

I shall be very glad to answer any questions.

A MEMBER.—What is the age of these young men?

Mr. ROUND.—The oldest Brother, with the exception of myself, is 28. The others are 27, 24, 22 and 21.

A MEMBER.—Do these young men teach?

Mr. ROUND.—They do. We have an admirable school.

A MEMBER.—Do you have any female employés?

Mr. ROUND.—We have a laundress; but she is not going to stay, since we now have a Brother who has begun to learn the laundry business. (He also has charge of the musical department.)

About two and a half years ago we received a letter from a woman in the West. She was fifty-four years old and had spent her days in teaching, and wanted to give the remainder of her life to work for boys. Her motive was the same as that which animates our Brothers. She inquired if she could be of any service at the Burnham Industrial Farm. She came to us and was known as Sister Frances. She remained with us, and was a daily and hourly bene-

diction to us, every moment of her stay. She taught school, she looked after the boys, and we thought it would be a good thing to establish a Sisterhood of St. Christopher as well as a Brotherhood of St. Christopher. But Sister Frances was called away to the sick bed of her sister, and it was thought wise not to attempt the organization of a sisterhood until we might hope for the return of Sister Frances. I wish to say that I would not have it at the Farm itself. I should remove it, and not put the very young boys under the charge of young men.

A MEMBER.—You do not think it desirable or necessary to have any woman employé about your institution?

Mr. ROUND.—I think it undesirable and unnecessary, except that I would have one or two good middle-aged women to exercise the motherly function of comforting and caring for boys in moments when they need special attendance. My wife is there sometimes, but she has no official connection with the institution.

A MEMBER.—You said that you thought it desirable to put the younger boys under the charge of the Sisterhood. At what age would you draw the line?

Mr. ROUND.—When a boy passes the age when his acts are purely mischievous, and begins to act in deliberate defiance of established laws. Very many boys pass through a period of moral depravity between the ages of twelve and fifteen years. I would not allow a boy of depraved instincts to pass through that period in company with other boys. I would remove him the moment I discovered by his chart that he had dropped at all in his morals. It is a question of judgment. You cannot make any hard and fast rule. We hope to have something extremely plain, in the way of a chart for every boy, that will show at a glance what the boy's moral condition is. We hope to have a chart by the irregular line upon which we can keep track of a boy. At first he makes up his mind that he will obey the rules and learn something. He starts out almost on a straight line. By and bye he commits some wrong act, gets discouraged, and drops right down. You see a very sharp oblique line leading to the bottom of his chart. Then he begins to climb back. From that period his course is invariably marked by a series of waves, with less and less depression, until his conduct record finally becomes an almost straight line. There is therefore sensible reason for calling a delinquent man or boy a "crook," and for the criminal to say he is going "straight" when he gets on the right track.

After a half-hour of more questioning, Mr. Round concluded his remarks.

Mr. IRA OTTERSON, superintendent of the Boys' Reform School, Jamesburg, New Jersey.—I think the audience has been detained quite long enough. We have all been so intensely interested in the account given of this excellent institution that it seems unnecessary for me to say anything. When I came to this Congress I did not come loaded up with ideas and with a feeling that if I did not have

the opportunity to express them I would explode, and that if the public did not hear them it would collapse. I came to listen. I have highly appreciated the papers and discussions in some of the other sections. But, since listening to Mr. Round, I want to say something of our work in the New Jersey institution, which is an institution solely for delinquent children. No child can be received into our institution who has not been committed to it by a justice of the supreme court, or at least by a law judge, and, in counties of the first class, by the presiding judge. No associate judge or police magistrate is allowed to make out a commitment. All classes and grades of offenders may be committed, except those charged with murder. The limits of age are eight and sixteen years. Sometimes these limits are stretched both ways. I received a boy who, it was stated in open court, was only six years of age. I received another boy upon whose warrant of commitment it was stated that he was fifteen, but when I questioned him he said that he was nineteen, but that he had given his age as fifteen thinking the court would let him off. I wish it had let him off and that the authorities had sent him immediately back where he belonged; he came from Ireland, and had been here about three weeks when he was arrested for stealing and sent to our institution. We kept him. He was a keen, shrewd, ignorant criminal, but he hoodwinked his officer sufficiently to gain his release; and, a very short time after, he wrote a letter to the secretary of our board, who does business in New York. It was written from the Hudson County Jail, which is in New Jersey just across the river from the city of New York. He wrote that he was in trouble, that he had been arrested upon a false charge, and he wished this trustee would come and see him and act as his friend at court. He told a story about his grandfather having left him an immense amount of money, which he had buried, and if he could get a furlough he would get it, pay his fine and be free. He got off, was soon arrested a second time and sent to the state prison at Trenton. He is now where he belongs, and where he ought to remain for his natural life.

All of our boys are not of that class. I can only give you a few instances. A number of years ago I received two brothers from a remarkable family. The father was a dealer in old junk, and in his perambulations many were his depredations on henroosts, etc. He had the soubriquet of "Dutch Henry." After a time the older brother was released, did pretty well for a while, and came to visit me, bringing a proud-looking young woman whom he introduced as his wife. He had a good team of horses, and he said, "I thought I would run down and see you and my brother"—not the second brother, but the third and youngest. This man poured poison in his younger brother's ear and he decamped. The boy had been out but one day when he broke into the postoffice and there committed larceny. I recaptured him, but he eloped again, committed another robbery and was again brought back. I placed him in the

family to which he belonged, gave him two days in solitary confinement for reflection, and the next evening brought him before all the boys of his family. On the table was a big pile of law-books and papers, and I opened a court, constituting myself judge, jury and advocate. I read aloud all the laws governing the school, including the charter, and the section of the statutes authorizing the superintendent to return to the county jail for a new trial any boy found incorrigible. During all this time I made John stand facing the other boys. After these preliminaries I said: "This boy has violated every rule of the school, as is well known to you. He has brought disgrace upon the institution, upon this family, and upon me. He has violated the laws of the state previous to his coming here, and every time that he has escaped. Each of those violations would warrant sending him to state prison. I am unwilling to decide the case. I have presented both sides of the question to you boys, and I want every one of you to give his opinion of what I ought to do. I will take a vote whether to give him another chance or to return him to the court with the strong probability that these charges will be brought against him and that he will be sent to the state prison for a long term. If there is any boy who does not understand the question, let him ask further explanation before putting it to a vote." No one asks a question. The culprit stands, with tears streaming down his face, watching me intently. I called the names of the boys, who voted yes or no. When I came to his brother Jacob I said, "Jacob, I cannot ask you as a brother to vote. We will excuse you." He dropped his head on his arm and sobbed.

The vote stood 23 against keeping him to 12 in his favor. I announced the decision, and it seemed as if the ceiling would fall on us. I said, "John, do you understand the verdict?" "Yes, sir." "John, dare you meet me half way and take my hand and say that, if I will give you another trial, you will give us no more trouble, but will try to be a good boy?" "Yes, sir." I took his hand. I said, "Boys, the vote stands 23 to 12. I count 13; so it is 23 to 25. John is going to stay." I left that boy, when I came here, driving a team; I send him anywhere; and from that time, which was a year and a half ago, he has been reprov'd but once, and that was for using tobacco. That is one boy.

The section adjourned.

GENERAL SESSION.

FRIDAY, JUNE 16, 1893, 8 P. M.

Dr. WINES presiding.

The PRESIDENT.—As announced in the programme, the subject for to-night is the prison question. But we have decided, instead of having another general meeting to-morrow morning for the discussion of insanity, to combine this evening's meeting with to-morrow morning's meeting, so as to give you a whole day's rest. I take pleasure in introducing as the first speaker Mr. CHARLTON T. LEWIS, of New York, who will speak on the uses of imprisonment.

THE USES OF IMPRISONMENT.

CHARLTON T. LEWIS.

Permit me to ask you, at the beginning of my remarks, to note that I am not here in any sense as a teacher, but simply as an inquirer after truth; and if, in the course of what I say, I should, for the sake of brevity and emphasis, at times express with considerable positiveness notions which may seem somewhat new and strange to you, please set it down to my ignorant eagerness for instruction.

The history of imprisonment is yet to be written. I know many noble men and women who are familiar with all that has been done by the spirit of Christianity, the spirit of faith and love and hope, for the amelioration of the condition of prisoners and the improvement of penal law, since the days of John Howard, when the prisons of the world were a disgrace to humanity—a disgrace greater than they are to-day, if such a thing is possible. But I have never met a student of this subject who had gone back of that time and who could tell me anything of the origin of prisons, of the historical meaning of the origin of prisons, of the historical meaning of the plan of imprisonment now practised by all civilized nations. Where did the practice originate? What was its purpose in the beginning? If we could ascertain what principle in human nature or what condition of society first led to the establishment of prisons, and how they have been developed, we might get some valuable light upon the use of imprisonment. In my feeble way I endeavored to pick up that

information from a great variety of books by ancient writers and general historians. I propose to give you some of the leading conclusions to which my mind has been led.

It seems that in the ancient times there was no imprisonment in the sense in which it is practised to-day. For instance, no mention of it is made in the penal law of Moses, and nothing was known about it at that time. In the New Testament and in Greek literature there is an occasional reference to imprisonment, but the word for it in Greek is precisely the word for bondage. It means to take a man and put him in chains, to fetter a man, when it is necessary to restrain him. The Romans cast some of the apostles into prison, but for what purpose? Did they attempt thus to punish them? Such an idea never entered their minds. Every prisoner was detained for a definite purpose. He was held for trial, or to keep him out of the way of somebody who was his enemy; but imprisonment as a penalty inflicted by law for crime did not exist. Prisons existed in the middle ages, but they were a sort of appendage of feudal power. Noblemen with castles always had prisons in them. Kings had prisons, into which they could throw their prime ministers, or wives, or anybody they could get hold of, and keep them there until they saw fit otherwise to punish them. But the idea of imprisonment as a penalty had not dawned upon the world.

When do we find it? Not until the eighteenth century. Before that time, the punishments inflicted for crime were almost altogether of a different character. Sometimes men were mutilated. Our Anglo-Saxon ancestors had a great fondness for cutting up the human frame. They were the veritable ancestors of the greatest surgeons of modern times. They took poor devils up on the public way and cut off their ears, and put out their eyes, and split their noses, and chopped off their hands, and sometimes their feet; and if they had not done anything that required such horrible treatment, they put them in the stocks or in the pillory and invited the boys to throw stones at them; or they had the public hangman come and whip them. They would fine a man of noble blood half his possessions, if he were guilty of crime. But until comparatively recent years imprisonment for crime was unknown.

How did the idea arise? The prisons were originally used for the custody of men convicted of crime, and to confine anybody whom the law wished to hold for a certain purpose until a particular time. As the humanitarian spirit grew, men gradually revolted at

the idea of torture, and they began to think that the prisons themselves were punishment enough; and God knows that some of them were the worst punishment that mortals could endure. At first men began to be left in prison indefinitely, and then the term was fixed by law for long periods, and then for shorter periods; and the laws themselves began to be modified, in a more humane spirit, so that imprisonment, which was considered as more humane than the penalties common in more ancient times, took the place of them nearly all.

This is the historical origin and growth of penal codes, until now we find grave jurists sitting in counsel, in different countries of the world, studying, in what they call a scientific spirit, the formation of a penal code of imprisonment. Why, the idea of applying science to the distribution of imprisonment as a penalty for crime has been carried to such an extent that in the recent parliament of Italy, when they undertook to frame a penal code, the question came up whether or not capital punishment should be abolished. It had been practically abolished for several years by the action of the government itself. But the question of capital punishment for aggravated crimes has never been debated with such fullness and vigor as it was in the Italian parliament, and the argument which at last seems to have decided the question in favor of the entire abolition of the death penalty was, I think I may say, the strangest argument that ever prevailed in a body of civilized men. I am in sympathy with the movement for the abolition of capital punishment. But I want you to note the argument that prevailed with those men. It was this. They said: The first requirement of a "scientific" penal code is that all penalties shall bear a certain proportion one to another, so that, when the court has precisely ascertained in mathematical expression the degree of guilt of the prisoner, and knows that it is precisely twice or three times the guilt of another prisoner, it shall be the duty of the court to inflict a penalty mathematically proportionate to the guilt. Now the introduction of capital punishment into such a code as that is impossible. You cannot say that to cut a man's head off or to hang him is just twice or three times so much imprisonment, or is adapted to twice or three times the amount of guilt that imprisonment for a given number of years would be. There is no proportion between a term of incarceration and death; therefore under a "scientific" code capital punishment drops out entirely. That, I say, was the last result of penal science in the great council of Italy, in discussing the

question of the penal code. Now, if there ever was a *reductio ad absurdum*, that is it.

Let us look at it a little. The Italian code is a good example. I wish I had time to present some of its leading features. Every conceivable crime that any man can commit against society, and a good many crimes besides which I think most of you would say are utterly inconceivable, are there defined with the utmost minuteness. They are graded and proportioned with reference to degrees of aggravation on the one hand, and of mitigation on the other; and a proportionate rate of punishment, measured by time and kind of imprisonment, is prescribed for each of them. As a code, it is the most astonishing work of the human mind. What does it assume as a starting-point? That when a man is convicted of crime, the evidence upon which he is convicted being before the court, it is practicable for the court to form an estimate of the degree of his guilt susceptible of mathematical expression; and that when a number of men are convicted of different crimes, in different degrees, it is practicable for the court to distinguish their varying desert in such a way as to bring them under the different articles of the code, and with strict and impartial justice to assign to each of them the precise kind and amount of imprisonment which his deed merits.

You and I are too familiar with term sentences for crime to realize at once their utter and astounding absurdity. The history of human nature is strewn with absurdities. If there is one dismal fact in life, it is the vast and amazing capacity of the human mind for delusion and fanaticism. But I am free to say that there is not in history a delusion, an expression of fanaticism, an institution, the absurdity of which transcends this. We employ our best men, educated men, highly trained lawyers of incorruptible mind and heart, the picked men of the community, to sit as judges on the bench and there to undertake a task which God himself could not accomplish, because it is a contradiction in terms. We ask them to find the just proportion between the penalties imposed and the demerit of offenses and of the men who committed them, on the basis of the evidence in virtue of which they are convicted. But the testimony is inadequate. Are human judges omniscient? We expressly forbid them to go outside of the record. If a judge were omniscient it would only be by defying the law which placed him upon the bench that he would dare to import into his judgment any element but that which has found its way, through the quarreling and quibbling of counsel and of wit-

nesses, to the record. And on the basis of that, is he to sit in judgment upon the intellect, the character, the life, the future of his fellow-man and decree what his fate shall be? This is what we require and expect of him.

One or two of the absurdities involved in this system are so obvious that I want to call your attention to them. In the law not only of Italy, but in the law of Illinois, of Ohio, of every state of this Union, you will discover on examination that the tacit assumption is made that, if two men commit the same illegal act, their guilt is equal. One may be an hereditary, habitual, incorrigible criminal, every impulse of whose nature is to war against society, every breath of his soul hatred, supremely selfish, corrupt, vile, without an ennobling thought, without a lofty aspiration, a being destined, you may say, from his cradle to wallow in corruption and to spread the moral pestilence of his nature among his fellow-men; the other perhaps is a man all of whose sources of character as they lay in his ancestry may be of the highest, whose life may have been pure and noble, until circumstances crushed it, who has succumbed to a terrible temptation, and now the shame, the degradation, the utter despair brought upon him by detection may have overwhelmed him not merely with sorrow but with a sincere repentance, so that, of all the impossibilities of the future, the greatest impossibility would be that that man should ever commit a crime again. But the guilt of these two, in the act defined by law as a crime, and proved by the evidence, is equal. The same sentence is pronounced against both, the same treatment is dealt out to them, and justice is so coldly, cruelly blind as to shut her eyes to the distinction between them. Or it may be that one man is old and has not five years, in the natural course of events, to live, while another has a long life before him and is just entering upon it. But their offenses bear the same name, and the same term of imprisonment for the same offense is decreed by the law against each of them. Is it the same penalty?

To one man the prison is a living tomb. To another it is a refuge. But the law deals out to both the same term of imprisonment. The thought is so utterly repulsive to every mind capable of right thinking on social subjects that I cannot understand how it is possible to tolerate it. It is a burning disgrace to our boasted civilization that this traditional method of dealing with crime is permitted to remain on our statute-books.

I will not enter upon any argument founded upon abstract justice. There is no conception of justice that has any application to the case. None is called for, because it would be impertinent. Society or the state, that is to say, the body of us who have not yet been convicted of crime, has no business to set itself up in the place of God and claim the right to inflict justice upon our fellow-men. We have nothing to do with it. What we have a right to do as an organized society is to protect ourselves, to protect our own rights against infringement. That we are bound to do. We must protect our lives, our property, our families and friends, and the good order of society on which these all depend. In order to protect it we must reform, if possible, and if reformation is impossible, extirpate the elements in society which threaten it. That is the rule by which we must be governed, and that is the extent and limit of our right and duty in the matter. The only question is a practical question. How shall we best accomplish this end? How shall we best extirpate criminality from the community? By removing it from the individual soul? or by removing from society the individuals who cannot be reformed?

Imprisonment suggests itself naturally and at once as a convenient method of putting out of the way those whom we wish to put out of the way, to restrain, to prevent from carrying on their warfare against society.

Now, if we must imprison men, what should be the duration of imprisonment? I think you will agree with me, since none of you have objected thus far, that the attempt to apportion fixed periods of time to men as an equivalent for their crimes is a humbug and a wrong. The first thing is to sweep that out of existence. Until every vestige of it disappears from our statute-books we have no basis for a "scientific" penal code. Then, if we retain imprisonment, by what method of measurement can it be made most useful? It is not necessary for me before this audience to point out in detail the advantages of the indeterminate sentence. If it is the duty of society to shut a man up because he cannot be safely trusted to be at large, then it is the duty of society to shut him up until he can be trusted to be at large. If we must put a man in prison because we cannot trust him out of jail, then let us keep him there until he can be released without danger to society. Is there any other rule that we can apply to the case? That is the whole meaning of the indeterminate sentence. There is no doubt in the mind of any thinking

man who has studied the subject that, scientifically, the indeterminate sentence is the only sentence for crime which ought under any circumstances and in any community to be adopted.

I am well aware that in the attempt to embody it in law and to carry it out in practice difficulties are encountered which are stupendous. It is impossible to exaggerate them. The work of a judge and a jury is in nowise diminished in importance, in difficulty and in delicacy by this form of sentence. On the other hand, the task involved in the administration of prisons by officials on whom is imposed the responsibility of deciding when and to what extent any person is fit for freedom, is so enormously increased that it seems almost hopeless, in the present condition of mankind, to find men capable of exercising such a trust. But there is a demand for them, and the history of the past proves that every moral demand once recognized will be met. I believe that the time will come when society can be organized on that basis, when the indeterminate sentence can be made universal, and that men can be found who will enforce it honestly, ably and successfully. The large way of justice is in this world forever strewn with the small injustices which bring out all its splendor by way of contrast. We are enabled to look forward to another world, where we hope that all injustice will be rectified, by this very contrast between the big justice and the little injustices in this world which is the highest stimulus to faith in God.

But I earnestly wish to impress upon you another thought of still greater consequence. It is that imprisonment is in its own nature one of the greatest evils that can be inflicted upon a man, in that it deprives him of the enjoyment of human society, thus imbittering his life. The loss of pleasure, of satisfaction, is a minor thing; the greater loss is that of intellect, of soul; it is the belittling of manhood. The immediate, inevitable effect on that man is to make him forever after a smaller and meaner being. He is less of a man than he otherwise would have been. It is a cruelty which is practised on a large scale by every nation of the world. But it is a cruelty so great, and in the vast majority of cases so unnecessary, that I think the mind of the world is awakening to it to-day. If any conviction has been ground and burned into my own mind by spending a considerable part of the last twenty years within prison walls, for the sake of studying this question, it is, that if a generation ago, every prison on the face of the earth had been annihilated and no new ones built, the world would be better to-day. The injury

done to mankind by letting prisoners loose, as we call it, and guarding ourselves against them as best we may, is incomparably less than the evil wrought by the prison system. Nine-tenths of the prisons in the United States to-day are manufactories of the criminal classes. They are universities of crime. They are places where souls are educated in all villainies, in all corruption, in all hatred to their fellow-men, and in all warfare against society. This is particularly true of the county jails of this country. If there were not a county jail in the United States, the prospects for civilization would be far better than they are.

The PRESIDENT.—Touch on the solitary question.

Mr. LEWIS.—That is a subject to which I have devoted less attention. The solitary system, as it was originally devised, has no existence in this country. In a very modified form it is practised in the Eastern Penitentiary of Pennsylvania. The solitary system in a very severe form is found in the prisons of Great Britain and of some of the continental nations of Europe. In England, imprisonment is absolutely solitary for a certain time. All felons sentenced to five years or more of imprisonment are for the first nine months kept in solitary confinement. By reducing the period of solitary confinement to nine months, after a long series of experiments, the British statesmen who have studied the subject say that they have eliminated most of the insanity, excessive depression of spirits, breaking down of health and manhood, that are the common result of long terms of solitary confinement.

But either solitary or congregated imprisonment is an unnatural life. It is not the life which citizens lead. No man who has not been much in prisons and observed them with care can imagine the wide difference. The associations of prison life are not society. Men work side by side as a penalty for crime, with no fellowship, no true companionship. Usually to the degree in which he is susceptible of social pleasure and pain, the prisoner is by his prison life degraded and incapacitated for human sympathy. Those who are called good fellows in prison are ordinarily the most abandoned, and are getting ready to continue their depredations on society when they go out into the world. The point I want to urge upon you is, that imprisonment itself in the aggregate is a great evil, and, if it be any way possible, we should diminish the volume of it. That is the question of the day. And it is one on which new light is coming to us from various quarters.

In the year 1869 M. de Girardin, who was once the editor of a Paris journal, a publicist of great breadth and comprehension of mind, published a long series of articles in his newspaper, in which he proposed that every important citizen of France, or of any other nation in which his proposed system should be applied, should be presumed, by virtue of his prominence and ability, to have public spirit enough to undertake to be the guardian and protector of at least one condemned criminal, if one should be assigned to him; and that as soon as a man was convicted of crime, unless he were a criminal monomaniac and uncontrollable, he should be assigned to some citizen who would be responsible for his appearance when called for, who would undertake to give him employment, and secure to him the opportunity to earn his living as a free man so long as he should behave himself, with such opportunities for moral and intellectual education as he might be capable of enjoying and improving. This system as elaborated by him was in the abstract very fascinating, and an attempt was made to enact it into a law. But, about the time when it was discussed in Paris, the war with Germany broke out. Soon after that war, de Girardin went on a tour around the world. Wherever he went he advocated this favorite idea of his. Among other places, he visited New Zealand and there impressed the idea on the statesmen of that infant colony with such effect that they embodied it to a certain extent in their probation law. Thence it spread to Great Britain, where a probation law has since been adopted; and now, in Massachusetts, a probation law went into effect July 1, 1891, whose working, as far as I can learn, seems to be of the greatest value. The principle of the Massachusetts law is that prisoners shall be assigned, upon conviction, not to the custody of citizens in general, but to the custody of particular officers appointed by the court, who will care for them, find them employment, watch over their conduct, and produce them when wanted; and those probation officers, at least in the city of Boston, are doing a remarkable work. Have we not in this system of probation the hint of a method by which a substitute for imprisonment may ultimately be found? Is it not possible that, at some not distant day, we may dispense with our strong stone walls and iron bars, and refrain from shutting up mankind behind them, there to corrode and destroy itself? that we may let men come out among men, receive the influences of society without danger to ourselves, and in that way work out the spirit of criminality from among men?

If society can so organize itself as to bring all its own healthy force to bear upon criminality, not incarcerated in prison but distributed through the community, with a chance to work itself out into moral health, there is a better hope for the future, at least for those who have been born without our advantages.

Various classes of men are studying this prison question. Many disregard it altogether, frown upon it, and are offended if it is brought to their notice. They consider it so painful that they are not willing to fix their eyes upon it. They want to look at something more beautiful. Others think that the panacea for all the moral ills which afflict society, especially for its crimes, is to be found in some form of moral or religious enthusiasm, some particular idea of good which they cherish, and which, they think, if brought to bear upon prisoners, would reform them altogether. Others still think that nothing is needed but rigid scientific study, especially of the doctrine of heredity, which will result in classing all criminals with the insane, explain away all difficulties, and settle the penological controversy. But these are practical questions, and we must look at them on every side. We must gather light from every quarter, before we can form views that will be sound and stand the test of time. For

“Beauty, good and knowledge are three sisters
That dote upon each other, friends to man,
Living together under the same roof,
And never can be sundered without tears.
And he that shuts out Love in turn shall be
Shut out by Love, and on her threshold lie
Howling in outer darkness. Not for this
Was common clay ta'en from the common earth,
Moulded by God, and tempered with the tears
Of angels, to the perfect state of man.”

A paper was then read on the *Treatment of the Insane* by Dr. G. ALDER BLUMER.

Adjourned.

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